PROHIBITING PHOSPHATE LEASING IN THE OSCEOLA NATIONAL FOREST, FLORIDA—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM, FLORIDA

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1138

A BILL TO PROHIBIT THE ISSUANCE OF PHOSPHATE MINING LEASES IN OSCEOLA NATIONAL FOREST, FLORIDA

S. 1633

A BILL TO PROHIBIT THE ISSUANCE OF PHOSPHATE MINING LEASES IN OSCEOLA NATIONAL FOREST, FLORIDA

S. 1873

A BILL TO DESIGNATE COMPONENTS OF THE NATIONAL WILDERNESS SYSTEM IN THE STATE OF FLORIDA AND TO PROHIBIT THE ISSUANCE OF PHOSPHATE MINING LEASES IN THE OSCEOLA NATIONAL FOREST, FLORIDA

H.R. 9

AN ACT TO DESIGNATE COMPONENTS OF THE NATIONAL WILDERNESS PRESERVATION SYSTEM IN THE STATE OF FLORIDA

APRIL 1, 1982

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PROHIBITING PHOSPHATE LEASING IN THE OSCEOLA NATIONAL FOREST, FLA.—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM, FLORIDA

THURSDAY, APRIL 1, 1982

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9 a.m., in room 3110, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senator Wallop.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. We wish everyone a good and pleasant morning. I don't know what I can do by way of saying that that would improve on what the Almighty already has provided us with. I think we should move this outside.

The Public Lands and Reserved Water Subcommittee will hear testimony this morning on four bills and an act that would prohibit phosphate leasing in Florida's Osceola National Forest and provide varying methods of compensation, including exchange, credits for future bidding rights, bonus, rental or royalty payments, and the direct purchase at fair market value to four companies holding applications for preference right leases on 52,000 acres in the Osceola National Forest.

In addition, H.R. 9 and its companion S. 1873 would add seven areas to the National Wilderness Preservation System in Florida within the Apalachicola, Osceola, and Ocala National Forests.

I am very interested in the methods of valuation to be used in reaching fair market value in implementing exchange or compensation for the companies and interests involved.

We should know the costs to the Federal Government for each alternate proposal. We must know the costs to the States affected in lost royalties, bonuses, and rents. We must know the best way to achieve an equitable settlement of this issue. The companies have been waiting for a decision for 12 years.

The State of Florida has, through their elected officials, made a decision to pursue a certain course of action. I am pleased to recognize that both Senators, two Congressmen, the Governor, and members of the State legislature are here today to state that position and variations.

Again, as a Senator from Wyoming, I have a keen interest in the return of the mineral royalties to my State and I would ask those who propose exchange provisions that could reduce the sharing of bonus bids, royalties, or rents that would accrue to Wyoming to explain how the equities could be reached. The bills are now silent on this issue.

I would ask also in the interest of time that the witnesses summarize their written statements to address the more pertinent point. Your entire statements will be made a part of the record. There are people who came a long way to be heard today and we want to get everybody, who has traveled, into the record.

In addition the hearing record will remain open for 2 weeks after the date of this hearing. What we have done is put the witnesses in panels. The first panel being Senator Lawton Chiles, Senator Paula Hawkins, Congressman Bill Chappell, and Congressman Don Fuqua.

And I would ask, if you don't mind, Senator Chiles, Senator Hawkins has a rather urgent additional place to be, like all of us, if she could proceed first.

Senator CHILES. That would be fine.

[The texts of the bills follow:]

II

97TH CONGRESS
1ST SESSION

S. 1138

To prohibit the issuance of phosphate mining leases in Osceola National Forest, Florida.

IN THE SENATE OF THE UNITED STATES

MAY 7 (legislative day, APRIL 27), 1981

Mr. CHILES introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To prohibit the issuance of phosphate mining leases in Osceola National Forest, Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) forty-one applications for phosphate preference right leases have been filed on fifty-two thousand acres in the Osceola National Forest in Florida;

(2) the pending applications cover one-third of the total acreage of the small Osceola National Forest;

(3) the phosphate deposits underlying the Osceola National Forest are estimated to represent less than 1.5 per centum of the total United States phosphate reserve base;

(4) the Osceola National Forest is presently a valuable source for outdoor recreational opportunities, rangelands, timber, fish, and wildlife, and the projected phosphate strip-mining activity is inherently incompatible with present multiple renewable and sustained uses and resources of the Osceola National Forest and inconsistent with the purposes for which these lands were acquired;

(5) phosphate mining would—

(A) result in substantial loss of forest productivity and sustained income to the region (assuming only twenty-eight thousand acres are mined and assuming commercial sawtimber could not be reestablished, there would be one hundred and thirty-five million board feet in growth loss during the thirty-year mining period and four and one-half million board feet loss annually thereafter);

(B) pose serious threats to fish and wildlife habitats and populations found in the forest, such as the black bear, and threatened and endangered species such as the Florida panther and the red-cockaded woodpecker;

(C) convert nine thousand acres of forest to water and have a highly undesirable effect on topography and vegetation of the forest;

(D) significantly impact existing uses of the forest for hunting, camping, vacationing, and other recreational activities; and

(E) alter chemical makeup and flow characteristics of forest streams and would result in a high risk of severe damage to the valuable Suwannee River system located immediately downstream; and

(6) technology is presently unavailable or unproven to assure phosphate mining could be carried out under conditions that would insure that these lands could be reasonably restored to serve the purposes for which they are presently managed.

(b) It is the purpose of this Act to protect the productive reserves of timber and other renewable resources and values associated with the Osceola National Forest by providing for the cancellation and suspension of any pending phosphate preference right lease applications for phosphate mining in the Osceola National Forest.

PROHIBITION OF PHOSPHATE MINING IN OSCEOLA NATIONAL FOREST

SEC. 2. (a) On or after the date of enactment of this Act no agency of the United States Government shall issue phosphate leases embracing lands in the Osceola National Forest, Florida, unless Congress by subsequent legislation determines that the mining of phosphate deposits underlying such Federal lands is in the national interest of the United States.

(b) On and after the date of enactment of this Act no other prospecting permits for phosphate in lands covering the Osceola National Forest shall be issued, and no such permit issued after September 29, 1967, for such lands shall be considered valid.

DISPOSITION OF PENDING PHOSPHATE MINING LEASE APPLICATIONS

SEC. 3. (a) Within two years of the date of enactment of this Act, the Secretary shall determine with the assistance of the United States Forest Service if any of those individuals or companies who have filed a phosphate preference right lease application have made a discovery or discoveries of valuable deposits. Such determination shall be based on finding by the United States Geological Survey pursuant to standards established by part 3520 of title 43, Code of Federal Regulations, as of January 1, 1981. The Secretary shall provide to the Comptroller General the details of each phosphate preference right lease application for which he has determined that a valuable deposit discovery or discoveries exist and that all requirements of applicable law for entitlement to a lease have been met.

(b) The Comptroller General shall determine, with respect to any lease application provided to him by the Secretary pursuant to section 3(a) above, the present fair market value of such leases, if such leases were able to be issued. Exploration costs shall not be considered in determining losses suffered as a result of being denied a lease. The Comptroller General shall forward such determinations of value to the Secretary within three years of the date of enactment of this Act.

(c)(1) Upon the petition of a lease applicant for whom a value determination has been made pursuant to subsection (b), the Secretary shall, at the option of the applicant—

(A) suspend the issuance of a phosphate preference right lease until such time as Congress enacts enabling legislation allowing the Secretary to issue a preference right lease to such applicant; or

(B) extend to the applicant a monetary credit to be used for bonus, rental, or royalty payments on any lease competitively won by the applicant in the amount determined by the Comptroller General pursuant to section 3(b) subject to necessary adjustments for inflation in the value of credit during the period of time it is held by the applicant.

(2) If an applicant waives his right to petition pursuant to paragraph (1), the Secretary shall acquire the preference right to the applicant's lease by purchase or condemnation. Effective October 1, 1982, the Secretary is authorized to pay such applicants amounts determined by the Comptroller General pursuant to subsection (b).

(d) Any payments made pursuant to this Act shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

(e) For the purposes of this section the term—

(1) "Comptroller General" means the Comptroller General of the United States;

(2) "Secretary" means the Secretary of the Interior; and

(3) "phosphate preference right lease application" means those applications for leases numbered BLM-A-080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548, 080549, 080093, 080297, 080298, 080299, 080801, 080975, 079903, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638; ES-0980, 0981, 0982, 0983, 3181, and 3208.

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II

97TH CONGRESS
1ST SESSION

S. 1633

To prohibit the issuance of phosphate mining leases in Osceola National Forest, Florida.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17 (legislative day, SEPTEMBER 9), 1981

Mrs. HAWKINS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To prohibit the issuance of phosphate mining leases in Osceola National Forest, Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to protect the productive reserves of timber and other renewable resources and values associated with the Osceola National Forest by providing for the cancellation and suspension of any pending phosphate preference right lease applications for phosphate mining in the Osceola National Forest.

PROHIBITION OF PHOSPHATE MINING IN OSCEOLA NATIONAL FOREST

SEC. 2. (a) On or after the date of enactment of this Act no agency of the United States Government shall issue phosphate leases embracing lands in the Osceola National Forest, Florida, unless Congress by subsequent legislation determines that the mining of phosphate deposits underlying such Federal lands is in the national interest of the United States.

(b) On and after the date of enactment of this Act no other prospecting permits for phosphate in lands covering the Osceola National Forest shall be issued, and no such permit issued after September 29, 1967, for such lands shall be considered valid.

(c) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the United States by subsequent legislation shall determine that the mining of phosphate deposits in such leases would be necessary to the national interest of the United States.

(d) Not later than three years after the date of enactment of this Act, the Secretary of the Interior shall, with respect to those individuals or companies which have:

(1) applied for phosphate preference right leases by applications numbered BLM-A-080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548,

080549, 080093, 080297, 080298, 080299, 080801, 080975, 079903, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638; ES-0980, 0981, 0982, 0983, 3181, and 3208; and

(2) made, as found by the United States Geological Survey, a discovery or discoveries of valuable deposits,

exchange the preference right lease applications for leases covering other minerals subject to the Mineral Leasing Act without competitive bidding upon voluntary surrender and relinquishment by the applicant of such preference right lease applications and all right to lease the lands covered by such applications.

(e) The leases to be issued by the Secretary pursuant to subsection (d) of this section and the preference right lease applications to be exchanged therefor shall be of substantially equal value. Upon completion of each negotiation for an exchange, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate the details of such negotiation and exchange, and such exchange shall be final one hundred and twenty days after the date of submission.

The details of such negotiation and exchange shall also be submitted to the House Committee on Agriculture at the same time as they are submitted to the foregoing committees.

(f) Any exchange lease issued by the Secretary under the authority of this Act shall be consistent with section 7 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 207).

(g) Any Federal coal leases issued pursuant to this section must be consistent with the existing land use planning requirements of the Department of the Interior or the Department of Agriculture, as applicable.

(h) If the Secretary is unable to effect an exchange governing any phosphate lease application covered by this Act he shall within four years of the date of enactment of this Act acquire the preference right to the leases by purchase or condemnation. Effective October 1, 1981, the Secretary is authorized to pay just compensation for the rights to leases to be acquired pursuant to this subsection.

(i) Any payments made pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

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II

97TH CONGRESS
1ST SESSION

S. 1873

To designate components of the National Wilderness System in the State of Florida and to prohibit the issuance of phosphate mining leases in the Osceola National Forest, Florida.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1981

Mr. CHILES introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate components of the National Wilderness System in the State of Florida and to prohibit the issuance of phosphate mining leases in the Osceola National Forest, Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Florida Wilderness Act of 1982".

WILDERNESS DESIGNATION

SECTION 1. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

(2) certain lands in the Apalachicola National Forest, Florida, which comprise approximately seven thousand eight hundred acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness—Proposed", dated February 1980, and shall be known as the Mud Swamp/New River Wilderness;

(3) certain lands in the Osceola National Forest, Florida, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "Big Gum Swamp Wilderness—Proposed", dated March 1980, and shall be known as the Big Gum Swamp Wilderness;

(4) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map

entitled "Alexander Springs and Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not restrict existing motorboat use on Alexander Springs Creek;

(5) certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand two hundred and sixty acres, as generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated November 1981, and shall be known as the Juniper Prairie Wilderness;

(6) certain lands in the Ocala National Forest, Florida, which comprise approximately two thousand five hundred acres, as generally depicted on a map entitled "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the Little Lake George Wilderness; and

(7) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and twenty acres, as generally depicted on a map entitled "Alexander Springs and Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness.

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of section 1 of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by such section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provisions of this Act.

SEC. 4. (a) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the United States by subsequent legislation shall determine that the mining of phosphate deposits in such leases would be necessary to the national interest of the United States.

(b) Within sixty days of the date of enactment of this Act, the Secretary of the Interior shall, with respect to those individuals and companies (hereinafter referred to as "applicants") which have applied for phosphate preference right leases by applications numbered: BLM-A-080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548, 080549, 080093, 080297, 080298, 080299, 080801, 080975, 079903, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638; ES-0980, 0981, 0982, 0983, 3181, and 3208, determine if any of those individuals or companies have made a discovery or discoveries of valuable deposits in accordance with the regulations and policies in effect as of the date of the filing of the applications.

(c) Within one year of the date of enactment of this Act, the Secretary, in consultation with the applicants, shall determine the present fair market value of leases which would be issued, absent the leasing prohibition of subsection (a) of this section, for those applications for which the Secretary has determined that a valuable deposit discovery or discoveries exist. The determination of fair market value shall be based on the replacement cost of the phosphate rock, taking into account comparable sales of phosphate rock in the Eastern United States, and costs of compliance with all applicable Federal, State, and local laws and regulations including reclamation and restoration of the land (including wetlands). In the event the Secretary and any or all of the applicants cannot agree on fair market value within one year of the date of enactment of this Act, the Secretary and the applicant or applicants concerned shall submit the determination of fair market value to binding arbitration by a board of arbitration conducted in accordance with the rules of the American Arbitration Association. Each member of the board of arbitration shall be selected through utilization of the procedures of the American Arbitration Association: *Provided*, That such board shall consist of not less than three arbitrators, unless the Secretary and the applicant mutually agree to a lesser number.

(d)(1) Within three months of the date of enactment of this Act the Secretary of the Interior shall enter into negotiations to, and shall within three years of the date of enactment of this Act, for those lease applications for which he has determined a valuable deposit discovery or discoveries exist, at the lease applicant's option:

(A) exchange the preference right lease applications for mineral leases subject to the provisions of the Mineral Leasing Act (30 U.S.C. 181 et seq., as amended) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351, 352, 354, 359), but without competitive bidding, upon voluntary surrender and relinquishment by the lease applicant of such preference right lease applications and all right to lease the land covered by such applications; or

(B) extend to the applicant, its successors and assigns a monetary credit to be used for bidding rights, bonus, rental or royalty payments on any mineral lease competitively won or otherwise held by the applicant, its successors and assigns; or

(C) suspend the issuance of phosphate preference right leases until such time as Congress pursuant to subsection (a) of this section enacts enabling legislation allowing the Secretary to issue a preference right lease to such lease applicant; or

(D) exercise any combination of the options enumerated in (A) through (C) above.

(2) All options authorized pursuant to this subsection shall be based on the fair market value of the prospective leases as determined through agreement or binding arbitration pursuant to subsection (c) of this section. In determining

fair market value the Secretary may contract with an applicant to perform any necessary exploratory drilling or other evaluation work and may compensate the applicant therefor through payment of money or in any subsequent exchange under this Act. In lieu of the options in (A) through (D) above, the Secretary may, at his option only, offer to purchase the preference right to the applicant's lease.

(3) Any leases to be issued by the Secretary pursuant to subsection (d)(1)(A) of this section and the preference right lease applications to be exchanged therefor shall be of substantially equal value, or if they are not, the values may be equalized by the payment of money to the Secretary or the applicant so long as the payment does not exceed 25 per centum of the value of the leases to be issued by the Secretary. The Secretary shall try to reduce the amount of the payment of money to as small an amount as possible. Upon completion of each negotiation for an exchange, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of the details of such negotiation and exchange.

(e) In the event the applicant selects the exchange option of subsection (d)(1)(A) and the applicant and the Secretary are unable to agree on an exchange within three years of the date of enactment of this Act (or at such time prior thereto mutually agreed upon the Secretary and the applicant concerned), the exchange shall be submitted to binding arbitration and development of an exchange proposal by a board of arbitration in accordance with the rules of the American Arbitration Association. Each member of the board of arbitrators shall be selected through utilization of the procedures of the American Arbitration Association: *Provided,* That such board shall consist of not less than three arbitrators, unless the Secretary and the applicant mutually agree to a lesser number. The decision of the board of arbitration shall be binding on the applicant and the Secretary, and the exchange proposed by the board shall be implemented by the applicant and the Secretary. At any point prior to the consummation of the exchange, the Secretary and the applicant may mutually agree to terminate the exchange in favor of the monetary credit or purchase options of subsection (d).

(f) The designation of the Big Gum Swamp Wilderness shall in no way be construed to diminish, abate, impair, or modify any rights which may be vested in the applicants on the date of enactment of this Act for Federal phosphate preference right leases applicable to any lands within the Big Gum Swamp Wilderness Area designated by this Act. The fair market or exchange value of any such rights as may exist shall be determined without reference to any restrictions on access or use which may result from designation of the area as wilderness.

(g) Notwithstanding any provision of this section to the contrary, the Secretary and the applicant may mutually agree to extend any of the time limitations in this section.

(h) Effective October 1, 1982, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

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II

97TH CONGRESS
1ST SESSION

H. R. 9

IN THE SENATE OF THE UNITED STATES

DECEMBER 15 (legislative day, NOVEMBER 30), 1981

Read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To designate components of the National Wilderness Preservation System in the State of Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Florida Wilderness Act of 1982".

WILDERNESS DESIGNATION

SECTION 1. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one

thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

(2) certain lands in the Apalachicola National Forest, Florida, which comprise approximately seven thousand eight hundred acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness—Proposed", dated February 1980, and shall be known as the Mud Swamp/New River Wilderness;

(3) certain lands in the Osceola National Forest, Florida, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "Big Gum Swamp Wilderness—Proposed", dated March 1980, and shall be known as the Big Gum Swamp Wilderness;

(4) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Alexander Springs & Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not

prohibit existing motorboat use on Alexander Springs Creek;

(5) certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand two hundred and sixty acres, as generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated November 1981, and shall be known as the Juniper Prairie Wilderness;

(6) certain lands in the Ocala National Forest, Florida, which comprise approximately two thousand five hundred acres, as generally depicted on a map entitled "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the Little Lake George Wilderness; and

(7) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and twenty acres, as generally depicted on a map entitled "Alexander Springs and Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness.

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of section 1 of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by such section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provisions of this Act.

SEC. 4. (a)(1) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the President transmits a recommendation to the Congress that phosphate leasing be permitted in a specified area in the Osceola National Forest. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(2) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(i) there is a clear and present national need for the phosphate resulting from a domestic shortage of phosphate reserves, and

(ii) such national need outweighs the overall public values of the public lands involved, including the wilderness area designated in section 1(3) of this Act, and the temporary adverse environmental impacts which are likely to result from the activity.

(3) REPORT.—Together with his recommendation, the President shall submit to the Congress—

(i) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(ii) a statement of the conditions and stipulations which would govern the activity; and

(iii) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(4) DISAPPROVAL.—Any recommendation under this section shall take effect after ninety days of continuous session of Congress have passed since the date of receipt by both Houses of such recommendation unless a concurrent resolution disapproving such recommendation is approved. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(5) NINETY-DAY COMPUTATION.—For purposes of this section—

(i) continuity of session of Congress is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day calendar period.

(b) Within sixty days of the date of enactment of this Act, the Secretary of the Interior shall, with respect to those individuals and companies (hereinafter referred to as "applicants") which have applied for phosphate preference right leases by applications numbered:

BLM-A-080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548, 080549, 080093, 080297, 080298, 080299, 080801, 080975, 079903, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638; ES-0980, 0981, 0982, 0983, 3181, and 3208,

determine if any of those individuals or companies have made a discovery or discoveries of valuable deposits in accordance with the regulations and policies in effect as of the date of the filing of the applications.

(c) Within one year of the date of enactment of this Act, the Secretary, in consultation with the applicants, shall determine the present fair market value of leases which would be issued, absent the leasing prohibition of subsection (a) of this section, for those applications for which the Secretary has determined that a valuable deposit discovery or discoveries exist. The determination of fair market value shall be based on the replacement cost of the phosphate rock, taking into account comparable sales of phosphate rock in the Eastern United States, costs of compliance with all applicable Federal, State, and local laws and regulations including reclamation and restoration of the land (including wetlands) and other costs normally incurred in the mining of phosphate. In the event the Secretary and any or all of the applicants cannot agree on fair market value within one year of the date of enactment of this Act, the Secretary and the applicant or applicants concerned shall submit the determination of fair market value to binding arbitration by a board of arbitration conducted in accordance with the rules of the American Arbitration Association. Each member of the board of arbitration shall be selected through utilization of the procedures of the American Arbitration Association: *Provided*, That such board shall consist of not less than three arbitrators unless the Secretary and the applicant mutually agree to a lesser number.

(d)(1) Within three months of the date of enactment of this Act the Secretary of the Interior shall enter into negotiations to, and shall within three years of the date of enactment of this Act, for those lease applications for which he has determined a valuable deposit discovery or discoveries exist, at the lease applicant's option:

(A) exchange the preference right lease applications for mineral leases subject to the provisions of the Mineral Leasing Act (30 U.S.C. 181 et seq., as amended) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351, 352, 354, 359), but without competitive bidding, upon voluntary surrender and relinquishment by the lease applicant of such preference right lease applications and all right to lease the land covered by such applications; or

(B) extend to the applicant, its successors, and assigns a monetary credit to be used for bidding rights, bonus, rental, or royalty payments on any mineral lease competitively won or otherwise held by the applicant, its successors and assigns; or

(C) suspend the issuance of phosphate preference right leases until such time as the President pursuant to subsection (a) transmits a recommendation to the Congress permitting the Secretary to issue a phosphate preference right lease to such lease applicant and Congress has not acted within ninety days as provided in said subsection; or

(D) exercise any combination of the options enumerated in (A) through (C) above.

(2) All options authorized pursuant to this subsection shall be based on the fair market value of the prospective leases as determined through agreement or binding arbitration pursuant to subsection (c) of this section. In determining fair market value the Secretary may contract with an appli-

cant to perform any necessary exploratory drilling or other evaluation work and may compensate the applicant therefor through payment of money or in any subsequent exchange under this Act. In lieu of the options in (A) through (D) above, the Secretary may, at his option only, offer to purchase the preference right to the applicant's lease.

(3) Any leases to be issued by the Secretary pursuant to subsection (d)(1)(A) of this section and the preference right lease applications to be exchanged therefor shall be of substantially equal value, or if they are not, the values may be equalized by the payment of money to the Secretary or the applicant so long as the payment does not exceed 25 per centum of the value of the leases to be issued by the Secretary. The Secretary shall try to reduce the amount of the payment of money to as small an amount as possible. Upon completion of each negotiation for an exchange, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of the details of such negotiation and exchange.

(e) In the event the applicant selects the exchange option of subsection (d)(1)(A) and the applicant and the Secretary are unable to agree on an exchange within three years of the date of enactment of this Act (or at such time prior thereto mutually agreed upon by the Secretary and the applicant concerned), the exchange shall be submitted to binding arbitration and development of an exchange proposal by a board of arbitration in accordance with the rules of the American Arbitration Association. Each member of the board of arbitrators shall be selected through utilization of the procedures of the American Arbitration Association: *Provided*, That such board shall consist of not less than three arbitrators, unless the Secretary and the applicant mutually agree to a lesser number. The decision of the board of arbitration shall be binding on the applicant and the Secretary, and the exchange proposed by the board shall be implemented by the applicant and the Secretary. At any point prior to the consummation of the exchange, the Secretary and the applicant may mutually agree to terminate the exchange in favor of the monetary credit or purchase options of subsection (d).

(f) The designation of the Big Gum Swamp wilderness shall in no way be construed to diminish, abate, impair, or modify any rights which may be vested in the applicants on the date of enactment of this Act for Federal phosphate preference right leases applicable to any lands within the Big Gum Swamp wilderness area designated by this Act. The fair market or exchange value of any such rights as may exist shall be determined without reference to any restrictions on access or use which may result from designation of the areas as wilderness.

(g) Notwithstanding any provision of this section to the contrary, the Secretary and the applicant may mutually agree to extend any of the time limitations in this section.

(h) Effective October 1, 1982, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act: *Provided*, That any payments made pursuant to this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts: *Provided, however*, That until the necessary sums are appropriated or an exchange agreement is executed with the holder of a phosphate lease application specified in section 4(b), such legal rights as such holder may have under such application shall remain in full force and effect.

Passed the House of Representatives December 15, 1981.

Attest: EDMUND L. HENSHAW, JR.,
Clerk.

By W. RAYMOND COLLEY,
Deputy Clerk.

STATEMENT OF HON. PAULA HAWKINS, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator HAWKINS. I do have to give testimony shortly to another committee. I appreciate, Mr. Chairman, so much having this opportunity, along with the other concerned Florida officials and want to thank you personally for keeping your commitment that you and Senator McClure gave us last year that you indeed would have these hearings this year and I would like to share my thoughts with this committee, as the newest member of the delegation and on the wilderness areas and how I feel we could resolve the dispute concerning phosphate mining in the Osceola National Forest.

The wilderness recommendations before the subcommittee today result from these, what we call RARE II, roadless area review and evaluation, efforts in Florida. There are seven areas, totaling 49,000 acres, encompassing land in Florida's three national forests, the Apalachicola, the Ocala, and the Osceola.

These areas provide a natural habitat for several endangered species, offer prime hiking, canoeing, and recreational opportunities and harbor significant archaelogical sites. They are also regions possessing unique vegetative, water, and wildlife resources. I believe their scenic environmental and recreational value is very high and the areas should be added to our wilderness system.

The Forest Service's RARE II efforts also designated five areas in Florida's national forests for further study as possible candidates for wilderness. The public comments which were solicited during the RARE II process indicate that the wilderness designation of these areas received significant public support. Such action has been endorsed also by Florida's major environmental groups and a number of community and academic organizations.

Today, I want to enthusiastically endorse the Florida wilderness proposals which the subcommittee is considering. I urge the subcommittee to favorably consider adding these new wilderness areas and not release, for nonwilderness management, areas still under study.

The second issue under discussion today is whether there should be phosphate mining in the Osceola National Forest. Mr. Chairman, Florida's citizens, and Florida's elected officials believe the answer is "No."

I believe Florida's argument can be summed up in one question. Is it reasonable for the Federal Government to overrule a State which has judged on the basis of vast and unmatched experience, that unacceptable environmental damage will result from phosphate mining in the Osceola, and is willing to sacrifice needed royalties to prevent it? I suggest the answer is "No," particularly since no compelling national interest is involved.

Let me document these points in turn. First, I would like to demonstrate that Florida's elected representatives are united, all of us. This must be a unique happening in politics. We are united in our opposition to phosphate mining in the Osceola Forest. Attached to my statement is a copy of the letter sent, with the entire Florida delegation, to Secretary Watt expressing our united opposition to phosphate mining in the forest.

In addition, I have attached a copy of a resolution passed by the State cabinet expressing its firm opposition also. Clearly, Florida's elected officials oppose mining the forest. Given this remarkable unanimity of opinion, those who support States rights—and I am looking at a chairman who really supports States rights—should insist——

Senator WALLOP. You are not trying to intimidate me, are you?

Senator HAWKINS [continuing]. That the Federal Government leave our forest alone. Should the Federal Government decide otherwise, a dangerous precedent will be set. What can happen to Florida will happen in other States as well.

Second, it is important to remember that Florida has more experience in phosphate mining than any other State in the United States. As chart 1 demonstrates, Florida produces over 80 percent of the Nation's phosphate rock and we have done so for years. It can be said that Florida is phosphate mining.

That means that Florida citizens and officials have more experience in evaluating the enviornmental risks from phosphate mining than officials in all other States. Those who challenge Florida's expertise, based on years of experience, carry a heavy burden of proof to show that Florida's judgment is unreasonable.

Third, there is no compelling national reason to mine the Osceola Forest at this time and probably there will never be. The State of Florida alone already produces more phosphate than the United States consumes and has done so for years.

In chart 2, we show you that in 1981 Florida alone produced 54 million tons of phosphate rock. The United States, as a whole, produced 61.5 million tons, consumed 45 million tons, exported 14 million tons, and added 2.5 million tons to its inventory.

Who are the foreign customers for U.S. phosphates? Poland has become an increasingly demanding patron. In 1979, Poland purchased 742,000 metric tons of United States phosphate rock. In 1980 that figure rose to 900,000 metric tons. In 1980, we also sold 382,000 metric tons to Romania and 67,000 tons to the Soviet Union.

Patrons of United States phosphate products in 1980 also include Libya which purchased 256,000 metric tons of phosphates. Given these amounts, which represent more than 50 percent of expected annual production, if you mined the Osceola, in effect what we are doing is devastating a beautiful forest in my State to help the governments most hostile to the United States.

Should relations between our countries change for the better, then sacrificing for friends maybe would make sense. But even under these circumstances, it would not be necessary to mine the Osceola to meet our domestic needs and to continue a vigorous export business.

How significant is the phosphate deposit under application in the Osceola National Forest? Mining the forest would recover approximately 100 million tons of phosphate. The U.S. Bureau of Mines has estimated that 4,100 billion metric tons of phosphate are recoverable in Florida alone, representing 95 years of domestic consumption, at less than twice the current price.

Therefore, the Osceola deposit represents only 2.4 percent of Florida's phosphate reserves. Major new discoveries in other States have been made which means we have a supply for more than the next 100 years. I don't consider adding another 2 years a reasonable return for the destruction of this beautiful forest.

Fourth, Florida is not asking for a free ride. As with other States, our State government is under tremendous fiscal pressure, probably more than any other State in the United States, because of what we have had to endure in the past few years.

In fact, our Governor has filed a request for higher sales taxes with the legislature. And despite this pressure the State of Florida is willing to forgo over $9 million in annual royalties and fees that will be collected if mining takes place.

In view of all the above, I believe it is unreasonable to overrule Florida's elected officials who are willing to sacrifice needed funds on an issue that involves no compelling national interests.

The second major question that must be answered to resolve the Osceola mining dispute is the appropriate level of compensation for the four companies that have filed for preference right leases and would be denied the opportunity to mine the forest.

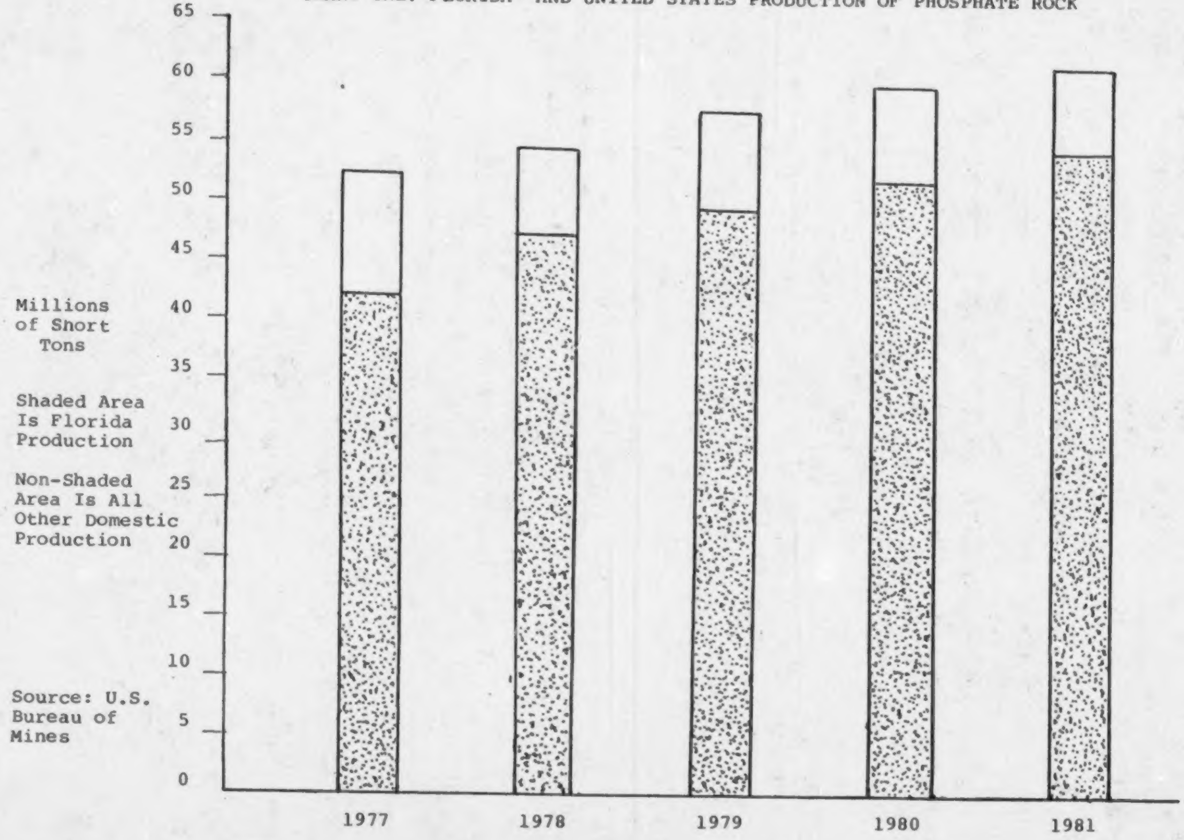
I believe this question is best left to your subcommittee to decide. In determining an equitable solution, you may wish to keep two factors in mind, however. First, the firm opposition of the State of Florida makes mining unlikely anytime soon. Company profits, if any, will not be achieved until some time away in the future.

The second factor that the subcommittee may wish to consider is the amount of funds that these companies have spent to date on this controversy and have those amounts of funds documented. We urge this. Should you decide to uphold our views, whatever method of compensation you may decide upon, I am sure the Florida delegation will support you.

And we thank you, Mr. Chairman, for letting me testify this morning.

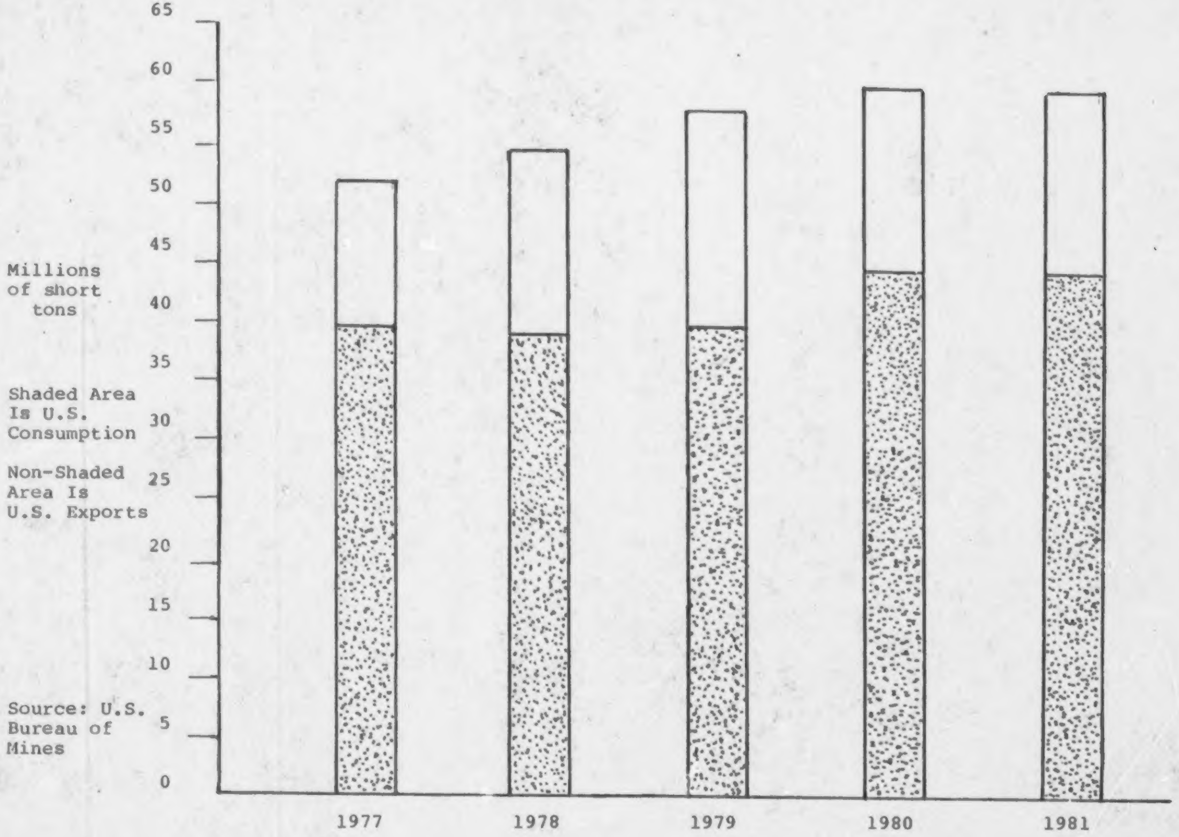
[Attachments to the statement of Senator Hawkins follow:]

CHART ONE: FLORIDA* AND UNITED STATES PRODUCTION OF PHOSPHATE ROCK



* Modest Production from one company in North Carolina included

CHART TWO: USES OF U.S. PHOSPHATE ROCK PRODUCTION



Source: U.S. Bureau of Mines

PAULA HAWKINS
FLORIDA

United States Senate
WASHINGTON, D.C. 20510

October 27, 1981

The Honorable James G. Watt
The Secretary of Interior
18th and C Streets, N.W.
Washington, D.C. 20240

Dear Mr. Secretary:

It is our understanding that the Department of the Interior is presently reviewing forty-one preference right lease applications for phosphate mining in the Osceola National Forest in Florida. The Congressional delegation of the State of Florida would like to express its concern over continuing reports that the Administration supports phosphate mining in this forest and is taking steps to attain that end.

The phosphate deposits in the Osceola National Forest are small in comparison to those beyond the forest's bounds. In fact, two-thirds of the phosphate body which contains the Osceola desposits lie on private lands adjoining the Osceola National Forest. Countless studies confirm that there is more than enough phosphate available in the United States to satisfy our domestic demand and allow us to maintain a healthy export trade in this commodity.

The Osceola is a multi-purpose forest. Therefore, a variety of recreational activities will be disrupted during 30 years of phosphate mining as proposed. Many of us also doubt whether the affected wetlands can be reclaimed without damage after that 30 year period.

Several proposals are currently before the Congress to prohibit phosphate mining in the Osceola National Forest and compensate those who have made applications to mine there. While these proposals suggest different methods of compensation, all have one overriding goal: prohibit phosphate mining in this valuable and unique national forest.

The Congressional delegation of the State of Florida and the citizens we represent are united in our opposition to the issuance of phosphate leases in the Osceola National Forest. One of the basic tenets of this Administration has been to return decision-making authority to the states and localities, who are best able to determine the needs of their citizens. It is our firm hope that the Administration will adhere to the doctrine it espouses, acknowledge the wishes of the citizens of Florida, and discontinue its efforts to institute phosphate mining in the Osceola National Forest.

Sincerely,

Lawton Chiles
Lawton Chiles
United States Senate

Paula Hawkins
Paula Hawkins
United States Senate

L.A. 'Skip' Bafalis
L.A. "Skip" Bafalis

Bill Chappell
Bill Chappell

Don Fuqua
Don Fuqua

Dante B. Fascell
Dante B. Fascell

Bill McCollum
Bill McCullum

Claude Pepper
Claude Pepper

Clay Shaw

Bill Lehman
Bill Lehman

Sam M. Gibbons
Sam M. Gibbons

Bill Nelson
Bill Nelson

Dan Mica

Earl Hutto
Earl Hutto

Andy Ireland

Bill Young

State Of Florida

RESOLUTION

WHEREAS, the United States Department of the Interior is considering issuing 41 phosphate mining leases in the Osceola National Forest, covering an area of some 52,000 acres or nearly one-third of the lands within the Osceola National Forest; and

WHEREAS, the proposed lease area for mining phosphate deposits in the Osceola National Forest includes 10,731 acres of cypress swamps, 4,354 acres of bay swamps and 345 acres of wetlands associated with creeks and streams, all of which would be irreversibly damaged according to the final Environmental Impact Statement prepared by the Department of the Interior; and

WHEREAS, environmental studies indicate that phosphate mining in the Osceola National Forest would lead to the irretrievable loss of suitable habitat for several Federal and State listed endangered, threatened, and rare species, including the Bachman's warbler, Florida black bear, grey bat, eastern indigo snake, red cockaded woodpecker, Florida panther, gopher tortoise, Sherman's fox squirrel and Florida sandhill crane; and

WHEREAS, phosphate mining in the Osceola National Forest would reduce forest production by as much as 135 million board feet of commercial saw timber during the 30-year period of mining, and by 4.5 million board feet per year thereafter; and

WHEREAS, phosphate mining in the Osceola National Forest would substitute a short-term gain in nonrenewable resource production for long-term beneficial multiple uses of the forest lands for such activities as recreation, forestry, and fish and wildlife propagation; and

WHEREAS, even with the advent of the sand/clay mix reclamation method, no proven technology exists for avoiding the extensive creation of phosphate slime ponds, which in the Osceola National Forest would remove vast areas from public use for 30 years or more; and

WHEREAS, no proven technology exists which would in any way justify phosphate mining in the Osceola National Forest or enable restoration of lost surface resources in the sensitive area; and

WHEREAS, there is no current shortage of phosphate ore which would justify opening the Osceola National Forest for mining; and

WHEREAS, members of the Florida Congressional delegation have introduced several bills which would prohibit phosphate mining in the Osceola National Forest.

NOW, THEREFORE, BE IT RESOLVED that the Governor and Cabinet of the State of Florida do hereby reaffirm the State's opposition to mining in the Osceola National Forest; and

BE IT FURTHER RESOLVED that the Governor and Cabinet of the State of Florida do hereby urge the President of the United States and the Secretary of the Interior to take appropriate action to prevent phosphate mining in the Osceola National Forest; and

BE IT FURTHER RESOLVED that the Governor and Cabinet of the State of Florida do hereby urge the United States Congress to adopt legislation prohibiting mining in the Osceola National Forest; and

BE IT FURTHER RESOLVED that the Governor and Cabinet of the State of Florida do hereby authorize appropriate state agencies to pursue all administrative and judicial remedies available to prevent mining in the Osceola National Forest and to prevent the use of state property, facilities or resources for any activity associated with mining in the Forest in the event that the United States Department of the Interior proceeds to issue mining leases; and

BE IT FURTHER RESOLVED that copies of this resolution be presented to the President of the United States, the Secretary of the Interior, and members of the Florida Congressional delegation.

IN TESTIMONY WHEREOF, the Governor and Cabinet of the State of Florida have hereunto subscribed their names and have caused the official seal of the State of Florida to be hereunto affixed in the City of Tallahassee, the Capital, on this 3rd day of November, A.D., 1981.

Bob Graham
BOB GRAHAM
GOVERNOR

George Firestone
GEORGE FIRESTONE
SECRETARY OF STATE

Jim Smith
JIM SMITH
ATTORNEY GENERAL

Gerald Lewis
GERALD LEWIS
COMPTROLLER

Bill Gunter
BILL GUNTER
TREASURER

Ralph D. Turlington
RALPH D. TURLINGTON
COMMISSIONER OF EDUCATION

Doyle Conner
DOYLE CONNER
COMMISSIONER OF AGRICULTURE

STATEMENT OF HON. LAWTON CHILES, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator CHILES. Thank you, Mr. Chairman. We want to thank you very much for holding this hearing and also Senator McClure. We appreciate very much your courtesy and your agreeing to do that. And I want to join with Senator Hawkins and also with Congressman Fuqua and at the outset I want to congratulate Congressman Fuqua. He has passed the bill from the House. He has done it twice.

He passed a bill last year and he has passed a bill this year and he has worked very long and hard and had support from the rest of the Florida congressional delegation in his efforts to try to prevent mining in the forest.

During my years in the U.S. Senate, I cannot recall a single Florida issue that has so unified sort of the State on the question, as this question of strip mining in the forest. When the issue—and I have a complete statement and I will file that for the record and try to summarize it as you requested.

I remember when the phosphate mining first surfaced back in the early seventies. The public outcry was loud and strong and the clear, strong voice of opposition from the people of Florida has not diminished over the years.

Newspapers throughout the State carry editorials fiercely denouncing the plan to lease the Osceola for phosphate. The Governor and the cabinet of the State of Florida strongly oppose the mining. The State legislature has passed legislation in opposition to it and the State's regulatory agencies have worked vigorously to oppose the mining as have local and regional governments and public interest groups.

I have been to meetings of the local county commissioners and public forums, at which the companies came and started talking about how much money this would mean in the region, how many jobs this would mean and in everyone of those areas those people have said, no, we don't want that money; we don't want those jobs; we want the continual renewed recreation area that we have in the forest today.

And, finally, the entire Florida congressional delegation has certainly worked together in unified support of Federal legislation to resolve this longstanding controversy.

Today your subcommittee is going to have an opportunity to hear from all of those particular factions and I would say that, first, the committee needs to act favorably because this forest should not be strip mined and, second, the committee should act quickly, because without such action there is little doubt in my mind that the administration is very soon going to be prepared to issue these leases.

I think that one of the questions that I would ask and then try to answer is can we say for sure that if strip mining is allowed that these lands will be restored back to the forest that we know and value today? And I think the answers are very clear that it cannot.

The technology does not exist today to restore a hardwood forest, to restore the kind of watershed areas and it is not there to try to restore these particular areas. Can we say that the projected mining will not pose threats to the wildlife of populations and habitats? That has been clearly answered that you cannot say that, both in the materials filed by the, in the environmental impact statement and all of the other materials that can be filed.

And can we say that this mining can take place without significantly impacting existing uses of the forest for hunting and camping and other recreational activities? This is approximately one-third of the forest that is going to be strip mined and it will have a major and disastrous effect on these recreational uses.

We, of course, know that there is no way of determining that mining would not damage the valuable Suwannee River system, which is located immediately downstream, and part of this watershed area makes up part of the, what is sort of the head waters of the whole Suwannee and its system and that is again a particular concern to all of us in Florida.

And, of course, as Senator Hawkins has said, it is very clear that there is no critical need today to have these resources, given the tremendous amount of private resources that are now held by companies in the State of Florida and the fact that if we need this phosphate it is not going anywhere and maybe in the year 2040 or after that we might need it strategically for the country and it would certainly be there where it would be available at that time.

I think the final question should be, do those shortrun benefits associated with mining outweigh the longrun costs in terms of the loss of the forest and all of our people are emphatically saying the answer to that is, "No."

Now, I think that to the point that the committee needs to move quickly, in spite of the voiced concerns of the people and the technical advice of the State and Federal regulatory agencies, we see that the administration is persisting and aggressively moving toward the issuance of the leases in the forest.

The Department of Agriculture has in my view failed in its responsibility to develop protective lease terms to adequately protect the forest. Now, they have chosen to disregard recommendations of the State of Florida, the Environmental Protection Agency, the Fish and Wildlife Service and among others.

The stipulations that the forest service recommended would allow for the creation of slime ponds on national forest lands, also allow for the proliferation of an unlimited number of permanent lakes and in addition the stipulations permit mining operations to begin in the wetland and the hardwood swamp areas even though the reclamation technology for restoring these types of land have not been successfully proven.

What the administration is saying is mine now and after you are through, we expect your companies to go back in there and make something nice and pretty out of this. I come from an area in which much of the forest State mining has taken place, in central Florida, and I can tell you when we look across the vast areas and see what we are trying to even do now in reclamation, everytime you take some of this out of the ground, you end up almost having to have more holes to put the slime back into, because once they get water and expand, they get that much larger.

So we have these tremendous settling areas that have to settle for years and years and years with these slime ponds. When they break out they immediately go, those slimes go to the nearest stream and we are continually having or we did have before we made tremendous dykes our streams polluted with this.

I think for these reasons, Mr. Chairman, quick action is needed by the committee for protective legislation, because we are running a race against time to save the Osceola. I do commend Congressman Fuqua on his diligent and successful efforts in getting the House to pass H.R. 9 and I hope that the committee will recognize the importance of this issue to our delegation.

Last year I introduced 1138 to accomplish this goal and later after the House took action on H.R. 9, I introduced the companion bill, which is now one of the proposals before you, S. 1873. I am pleased that the House subcommittee took some of the provisions that I was recommending in my legislation.

While I am dedicated to saving the forest, I am nevertheless open to suggestions of how we go about achieving this protection. I want to be fair to the companies involved and I also want to be fair to the Nation's taxpayers and I want to be fair to the chairman's State when he raises an issue that he is concerned about.

And so for that reason, I am not locked into any particular approach, but I think the most important thing is to try and stop this mining before it takes place and we have the disastrous consequences that would go from that. In my complete statement, I point out, as of now there is not a valuable leasing right that has been proved up by the companies and now is the time, of course, that we should act.

[The prepared statement of Senator Chiles follows:]

SENATOR LAWTON CHILES

Senate Subcommittee on Public Lands and Reserved Water
April 1, 1982

I appreciate having the opportunity to be here today to testify in support of legislation to prohibit phosphate mining in the Osceola National Forest in Florida. During my years in the U.S. Senate, I can't recall a single Florida issue that has so unified our State as the question of possible strip-mining in the Osceola National Forest. When the issue of phosphate mining first surfaced back in the early 1970's, the public outcry was loud and strong. That clear, strong voice of opposition from the people of Florida has not diminished over the years. Newspapers throughout the State of Florida continue to carry editorials fiercely denouncing the Administration's plan to lease the Osceola for phosphate mining. The Governor and Cabinet of the State of Florida strongly oppose the mining. The State Legislature has passed legislation in opposition to the mining. The State's regulatory agencies have worked vigorously to oppose the mining as have local and regional governments and public interest groups. And finally, Mr. Chairman, the entire Florida Congressional Delegation has worked together in unified support of Federal legislation to resolve this long-standing controversy. Today your Subcommittee will have an opportunity to hear from these parties, and I am especially pleased to lend my voice to these who seek to protect this Forest from being permanently changed by possible strip-mining activity.

Mr. Chairman, permit me to put the present situation in an historical perspective.

Most of the Osceola National Forest is "acquired land", purchased with Federal funds rather than set aside from the public domain. These lands were approved for purchase under the authority of the Weeks Law of 1911, as amended, which directed the Secretary of Agriculture to recommend for purchase "lands (which). . . may be necessary to the regulation of the flow of navigable streams or for the production of timber." According to a Congressional Report on the Osceola acquisition, the purchase of these lands was designed to promote timber managements as well as to protect the swamplands.

Since the Osceola National Forest was first set aside, the use of the Forest has grown to include such popular activities as hunting, fishing, camping and other recreational opportunities. In addition, the Forest has fostered a rich wildlife community. In all instances the opportunities afforded by the Osceola National Forest have been totally compatible with the Forest's primary purposes of timber management and wetland protection.

Now, Mr. Chairman, the Department of Interior is reviewing 41 preference right lease applications for phosphate mining covering 52,000 acres of the forest. If approved, mining could take place on almost one-third of the Forest's acreage. The possibility of strip mining in the Osceola National Forest is drastically inconsistent with the purposes for which these lands were originally acquired. Environmental studies have pointed to the adverse impact of strip mining on water resources, timber production, and swampland protection.

In addition, phosphate mining would significantly impact existing uses of the forest for recreation activities and would pose serious threats to wildlife habitats and populations found in the forest. Past studies, agency reports, and public testimony have provided a clear record of the adverse impact of strip mining on the forest and have, in my view, presented a convincing case that the exclusive use of these lands for intensive phosphate mining would be contrary to multiple-use management objectives of the Osceola National Forest.

I certainly recognize the critical importance of providing adequate phosphate supplies for our country, but I see no reason to destroy a national forest when alternative undeveloped phosphate deposits exist. Surely we should put the question of mining the Osceola aside at least until such a time when the supply of phosphate becomes critical, and the supply of recoverable phosphate has been exhausted on private or Federal lands on which the mining would have a lesser environmental impact, or which can be more effectively reclaimed. For the time being, Congress has a responsibility to recognize and protect the multiple uses and rich natural values associated with this forest resource.

For these reasons, I join with others in opposing the issuance of phosphate mining leases in the Osceola. At the present time none of the Osceola National Forest lease applicants have demonstrated they are "entitled" to a lease. This is significant point, Mr. Chairman, that no rights to leases yet exist. However, what has taken place within the Department of Interior and the Department of Agriculture in conjunction with the processing of these lease applications will play a crucial role in the future determination of lease rights. For this reason, I want to outline, for the benefit of the Committee, the procedures taking place concerning these lease applications and the determination of lease rights.

The Mineral Leasing Act does allow tne Department of Interior to lease phosphate and other mineral deposits located on acquired Forest lands. However, important provisions in the law clearly grant the Secretary of Agriculture, as the head of the executive department having jurisdiction over those lands certain authorities to "ensure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered."

Under existing regulations, after a company demonstrates that a discovery of a minable reserve has been made, then a final showing must be made to prove the current profitability of the mining operation. This final showing, the so-called "valuable deposit" test takes into account, among other things, the costs of operating the mining, of complying with existing governmental regulations, and of meeting reclamation requirements, Forest Service stipulations, and environmental standards. Meeting the valuable deposit test is a condition precedent to issuance of preference right leases.

It is important to point out that, because the Forest Service can impose surface resource protection and reclamation stipulations, and because the costs for complying with these stipulations must be accounted for in determining whether or not a valuable deposit discovery has been made, there is some possibility that, if all environmental costs are taken into account, the deposits covered by the 41 lease applicants cannot be profitably worked.

On this point, I want to quote a portion of the letter sent to me by former Secretary of Agriculture Bob Bergland in December, 1978. He said, "There are serious doubts that the deposits can be profitably worked when all environmental costs are taken into account. If this proves to be the case, then, the applicants will have failed to meet the valuable deposit test, and the Secretary of Interior will refuse to issue the leases."

Later in his tenure as Secretary of Agriculture, Secretary Bergland wrote to Interior Secretary Cecil Andrus requesting the Secretary to withhold leasing on the Osceola National Forest for the immediate future. In this May, 1980 letter he said that technology is presently unavailable or unproven to assure mining could be carried out under conditions that would insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.

Soon after the Reagan Administration entered office, I contacted the Secretary of Agriculture, Mr. Block, concerning the Department's position on the Osceola phosphate mining leasing question. In an April, 1981 response to me Secretary Block indicated that the Department position was the same as that expressed by Secretary Bergland to Secretary Andrus in the previous Administration. I was encouraged by this response. Then, a few months later, I began hearing reports about intense industry pressure on Interior regarding the pending lease applications. I knew efforts were underway in the Department of Interior to move forward quickly with processing the applications, but I was clearly distressed to learn that in trying to "speed up" the process, the Department was also trying to remove so-called "obstacles" to leasing, meaning past objections and concerns about projected mining activity.

One such incident involved a letter to Anne Gorsuch, Administrator of the Environmental Protection Agency, from the Assistant Secretary of Interior for Land and Water Resources. This June, 1981 letter was an apparent effort on the part of the Department of Interior to secure EPA's approval for the issuance of mining leases in spite of the strong reservations voiced by EPA in the past.

A position previously expressed by the Environmental Protection Agency stated that the issuance of the leases would lead to irreparable destruction of some 28,000 acres of the Osceola. A January, 1980 report to the Bureau of Land Management from the Agency recommended that no leases for phosphate mining be issued for the Forest and that alternative approaches be explored to resolve the matter of the pending lease applications.

Another distressing incident occured on October 22 when hearings were held on H.R. 9 before the House of Representatives Interior

Subcommittee on Public Land and National parks. It was at this time the Department of Agriculture first announced its drastic departure from a previously stated position on the phosphate leasing question. During this hearing the Assistant Secretary for Natural Resources and Environment reported that the Administration believes the Osceola can be adequately reclaimed if strip-mining for phosphate. The Administration's testimony, as well as supportive industry testimony, has since been refuted by a comprehensive technical report prepared by Florida State officials. In addition, in its Committee Report on H.R. 9, the House Interior of Insular Affairs Committee has agreed that restoration of the Osceola National Forest after strip-mining is highly questionable. In spite of this rebuttal, however, the Administration insists on holding firm to its position on mining the Osceola and this philosphy has colored the Department's action on the pending lease applications.

On February 3, I was notified by the Chief of the Forest Service that work had been completed on the stipulations which will be used to determine of a valuable deposit has been discovered and if lease rights exist.

I strongly question these stipulations. I feel the DOA failed to develop strong and protective lease terms to adequately protect the Forest, disregarding recommendations of the EPA & USFWS. Among other things the stipulations allow for the creation of slime ponds on National Forest land. They allow for a proliferation of an unlimited number of permanent lakes. In addition, the stipulations permit mining operations to begin in wetland and hardwood swamp areas even though reclamation technology for restoring these types of lands has not yet been successfully proven.

For these and other reasons I wrote to Secretary of Agriculture, John Block, to request his review and reconsideration of these stipulations. He responded that he found these stipulations to be adequate. I appealed to Secretary of the Interior James Watt to suspend action on the lease applications until a review of the stipulations could be made. He also turned me down. I still feel these stipulations need review, now more than ever. These stipulations will allow significant alteration and damage to the Forest if phosphate mining ever takes place, and it will contribute to larger costs to the government if and when any lease rights are purchased.

The frustration remains, however, in that the Department of Interior is agressively processing the lease applications using the Forest Service stipulations in spite of voiced concerns by myself and others. Let me just say, Mr. Chairman, that I intend to continue monitoring the administration process of determining what, if any, rights exist to mine phosphate in the Osceola National Forest.

In any event, I feel Congress has a responsibility to reject outright the notion of strip-mining this small, productive, and popular forest resource. We need to ask, and then answer, several basic questions concerning phosphate mining in this Forest:

Can we today say for sure that if strip-ming is allowed to take place, then eventually these lands will be restored back to the Forest we know and appreciate today? Osceola? The answer is No, We Can't.

Can we say that the projected mining will not pose possible threats to wildlife populations and habitats found in the Osceola? The answer is No, We Can't.

Can we say that this mining won't run any risk of damaging the valuable Suwanee River system located immediately downstream from the lease areas? The answer is No, We Can't.

And, Mr. Chairman, is there today a critical need to develop the particular phosphate reserve underlying the Osceola National Forest. The answer is No, There Is Not.

Therefore, Mr. Chairman, the final question should be do the short-run benefits associated with mining this phosphate outweigh the long-range costs in terms of loss of these forest land resources? Clearly, the answer is No, They Do Not.

For this reason, legislation needs to be enacted to prohibit phosphate mining in the forest and set forth a procedure for dealing equitably with those lease applicants who may prove to have an entitlement to a mining lease. We are running a race against time to save the Osceola. For this reason, quick action by the Senate is necessary if we are to insure the continued use and protection of this forest resource.

In May of last year I intoduced legislation in the Senate to accomplish the goal of protecting the Osceola National Forest from strip mining. This bill, S. 1138, is one of the proposals before the sbucommittee today. In the fall of last year, the House subcommittee held a hearing on the leasing question and explored a variety of proposals designed to prevent stip mining in the Forest. As a result of this study, the House subcommittee reported legislation to the House of Representatives which represented a consensus on a number of issues. I was pleased that the subcommittee bill incorporated some of the provisions of my bill, S. 1138.

Under the provisions of the House subcommittee bill, the Secretary of the Interior is authorized to determine which of the lease applicants are entitled to a lease. Those lease applicants who are found to have a lease right could then exercise a number of options in lieu of being issued the phosphate mining lease. The company could exchange lease rights to lands in the Osceola for leases on other public lands. Or, the company could ask that the lease application be suspended until such time as Congress agrees to open up the Forest for mining. Or, the company could receive a monetary credit in the amount determined to the value of the lease right which could be used for bidding rights, bonus rental or royalty payments on other mineral leases. In addition, in lieu of the options outlined above, the Secretary of the Interior may also offer to purchase the lease right from the applicant.

When the House Subcommittee reported their proposal, I introduced a companion measure in the Senate, S. 1873, so that the Senate could begin to work hand in hand with the House on this important matter.

When H.R. 9 was considered by the full House Interior Committee, an amendment was offered which proposed a change in the procedure used to open up the Osceola to mining in the future if its phosphate deposits would be needed in the interest of the United States (Section 4(a)(4) of H.R. 9). The original Osceola proposals recommended that no leases be issued unless and until the Congress enacted legislation to allow mining to take place. The amendment adopted by the House Committee (and subsequently agreed to by the full House) proposes that no mining take place unless and until the President recommends to Congress that such mining is in the national interest. Under the provisions of H.R. 9 leasing could take place in the Osceola unless Congress disapproves of the recommendation by concurrent resolution within 90 days. Quite frankly, I would prefer that Congress reserve the power to determine if and when mining the Osceola is necessary. If, however, the Senate Committee agrees to give the President the authority to make this recommendation, I would hope this proposal could be changed.

Since it is Congress that will hopefully take the necessary step to protect this forest, I feel Congress should play a positive role in affirming a reversal of this decision and allowing mining to take place someday in the future. For these reasons, I would recommend that the Committee adopt language contained in section 1502 of the Alaska lands Act (P.L. 96-487). This language would require Congress to approve the Presidential recommendation by enacting a joint resolution within 120 calendar days.

Mr. Chairman. The Committee is considering a number of proposals all aimed at achieving the same goal -- the protection of the Osceola National Forest. While I am dedicated to saving the Forest, I am nonetheless, open to suggestions on how we go about achieving this protection. I want to be fair to the companies involved, and I want to be fair to the Nation's taxpayers. I am certainly not locked into any particular approach, and I will not object to any sound and sensible solution that can be worked out to resolve this problem. I want to commend Congressman Fuqua for his diligent and successful efforts in getting the House to pass H.R. 9. I hope the Members of this Committee will act quickly and favorably on similar legislation to ensure the continued use and protection of the Osceola National Forest.

Let me just mention, too, the wilderness areas in the other Florida National Forests being considered by the Committee. These areas were studied and recommended by President Carter and the Forest Service in April, 1979 as a result of the RSRE II process. These areas have been approved three times by the House of Representatives and are non-controversial. It was unfortunate the Senate was unable to pass this legislation during the last Congress, and I hope the Committee will act on to take place someday in the future. For these reasons, I would recommend that the Committee adopt language contained in section 1502 of the Alaska lands Act (P.L. 96-487). This language would require Congress to approve the Presidential recommendation by enacting a joint resolution within 120 calendar days.

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Thank you again for letting me testify on these public land issues which are so important to the people of Florida.

Senator WALLOP. Thank you very much, Senator Chiles. I do believe that part of the movement that you see is to the point where the evaluation must take place and can be initiated. It is also my belief that by the passage of the bill in the House and by the fact we are holding this hearing is that protection is on the way and that the mining is not likely to take place as long as this type of activity is going on.

Senator CHILES. Well, I would certainly hope so, except that I would just point out, Mr. Chairman, that as the administration continues to move forward, granting all of the provisions on this, if anything we are making the process more costly. The companies are likely to be involved in more steps that they are going to take. If we are going to prevent this, the quicker we can prevent it, everybody is going to save time and effort and therefore tremendous sums of money.

Senator WALLOP. Maybe you could develop those reasons later on. I appreciate your coming here and I thank the persistence of both you and Senator Hawkins. It has been admirable. We would have had it earlier, as you well know, but the chairman has another hat he once in a while has to wear.

Senator CHILES. I understand that. We thank you for scheduling it as early as you could after you got off the other hat that you had to wear.

Senator WALLOP. Thank you. Congressman Fuqua, welcome here this morning.

STATEMENT OF HON. DON FUQUA, A U.S. REPRESENTATIVE FROM THE STATE OF FLORIDA

Mr. FUQUA. Thank you very much, Senator. And I would like to submit a prepared statement for the record. And I will in the interest of brevity try to summarize my concerns. I come here today—well, I want to thank you, as you have already been thanked for holding this hearing, and also to my former colleague in the House, Jim McClure, for scheduling the hearing.

I appreciate that very much and I think we are making significant progress. I come to speak on behalf of the bill which has passed the House, H.R. 9, that I sponsored and was cosponsored by the entire bipartisan delegation in the House. It passed the House last fall by a voice vote and during the course of that time I had a chance to learn of some of the concerns of some of my colleagues, particularly from the Western States, that they had about the bill.

Before I get into that, I want to say it is the Florida wilderness bill. We do have two wilderness areas. They are located entirely within my district, and Congressman Chappell can speak to the Ocala National Forest, but in the Osceola and the Apalachicola, there is no controversy related to the wilderness areas.

As to the mining in the Osceola, as has been pointed out, the Osceola forest is not a large forest. It is 152,000 acres. As compared to western forests it is minute. But within a 100-mile radius of that forest lives over 1 million people that use the forest.

It is available for hunting, fishing, camping, walking in the woods, observing wildlife, and it is filled with all kinds of wildlife. Those people, if this mining were to take place, would destroy about a third of that forest. Now, you have a lot of people and the people in my State who love to go out to Wyoming and hunt and it is very enjoyable, but if you take one-third of the area and have it being mined it makes people very, very upset.

Senator **Wallop**. Well, one of the things we don't need is any more Florida hunters up in Wyoming.

Mr. **Fuqua**. So this may work in that fashion, Senator, that that would put more pressure on Wyoming hunting. But the thing that has been pointed out very aptly by my two distinguished Senators, that the phosphate is not needed now. We are exporting 59 percent of our phosphate.

The phosphate council estimates that under lease to date that there is available phosphate to last our needs for over 200 years. So it is not something that we need. If we, and this can be a reserve in case something should happen that in some future generation phosphate was needed, we would have the phosphate and not have it moved.

We are not per se opposed to mining or want to shift the mining. One of the questions my House colleagues raised, well, why don't we shift it somewhere else and do mining for coal. We have no coal. This is one of the few natural resources that we have in Florida. Mining, gravel and limestone and dolomite are about the extent of the natural resources of this type that require strip mining.

And if you fly over Florida or drive through Florida you can see, I think we are paying our share of the strip mining. While we don't like it, we recognize that that is a contribution that we must make to our overall resources of our country. But there is mining within 10 miles of this taking place.

But the concern that the people have is not the fact that there is phosphate mining nearby, but the national forest which was purchased by tax moneys for recreation and for the multiuse that we have of forests and to see that deviated to be torn up and mined when it is really not necessary, really causes a great deal of concern.

Every community, every city, every chamber of commerce, every local elected official has expressed some form of opposition to this mining in the forest. The State cabinet, and I agree with my colleagues, I have never seen the officials, business, labor, environmentalists, everybody agree on one thing as they have on this particular issue.

And I would like to emphasize that it is unanimity, even within our congressional delegation and our cabinet, and many of us are in different political parties. So it is not a partisan issue. It is not that Florida does not wish to mine in its State. It is the fact that we want to save the forest.

I am like Senator Chiles, I have worked on this bill for over 6 years, trying to get it through. We would huddle and punt and pass and do end runs and other things and try to come up with some commonality. My feet are still not fixed in concrete as to the exact approach that it should take. I think that it is probably the most reasonable approach to protect the interest of those who hold the mining rights.

I think that they should be protected and I am certainly agreeable to that. I also agree with the comment that Senator Chiles made, we also have a public interest that we as elected officials must look after that responsibility. So I would hope that we could move on this as rapidly as we could and maybe by doing so would help to calm down some of the tensions that have developed among the people that are very, very concerned and upset that any mining might take place in what they consider their forest and it is their forest. It is the people's forest.

And they feel very strongly about that and I would like to urge you to act as prudently as you possibly can and try to get this legislation to the floor and passed in the Senate.

Thank you, Senator.

[The prepared statement of Mr. Fuqua follows:]

Statement by the Honorable Don Fuqua before the Subcommittee on Public Lands and Reserved Water of the Senate Committee on Energy and Natural Resources.

Mr. Chairman, I deeply appreciate the opportunity afforded me to testify before your subcommittee today. We have had four sets of hearings on the Osceola National Forest controversy in the House of Representatives but this is the very first time Senate hearings have been held and I want to commend you for convening these hearings. You have several proposals before you today but I want to address my remarks specifically to H.R. 9, the Florida Wilderness Act, passed by the House of Representatives. In doing so, I want to also express to you my absolute and total support for the measures introduced by Senator Chiles and Senator Hawkins.

Florida has three national forests. Two of them, the Apalachicola and the Osceola, are located entirely within the boundaries of the Second Congressional District which I am privileged to represent. H.R. 9 would expand one wilderness area in the Apalachicola and create a new one. First, it would extend the boundaries of the Bradwell Bay Wilderness by 1,171 acres. It would also create the Mud Swamp Wilderness AReA to be comprised of 8,250 acres. These areas are generally non-controversial. This Act would also create the Big Gum Swamp Wilderness Area in the Osceola National Forest. This wilderness would be composed of 13,600 acres.

A larger issue in this legislation is my proposal to terminate phosphate lease rights in the Osceola National Forest. I feel very strongly about this matter and would briefly like to outline the situation.

In the 1960s, four companies gained phosphate lease rights covering 52,000 acres of the Osceola National Forest. To put that in perspective, the Osceola is the smallest national forest in Florida. It is composed of 157,230 acres. The Ocala National Forest has 378,178 acres and the

Apalachicola National Forest has 558,867. One-third of the entire forest is in danger of being strip mined. We cannot allow this to happen.

The phosphate in the Osceola National Forest is no great lode that will solve all of the world's problems. As a matter of fact, there is presently no shortage of phosphate available in the world and many mining interests have had to curtail present operations. The phosphate in the Osceola is not needed at present.

The Osceola is a multi-purpose forest. Fishing, swimming, hiking and hunting are only a few of the many recreational activities going on in the forest at the different seasons of the year. To say that the mining would not interfere with these enjoyments is to fight common sense. The forest lands are much too valuable to be torn up by the ravage we call strip mining. True, the mining interests will "reclaim" the land in time but present enjoyment will have to be sacrificed and there is no reason for this to be done.

The phosphate deposits within the national forest are small in comparison to those outside the forest. I strongly support the on-going mining operations on private land. It is my belief, however, that we must protect this national forest.

Several species of endangered or threatened animals now make their home in the Osceola National Forest. Mr. Chairman, mining would be incompatible with the wildlife in the forest.

H.R. 9 provides relief for those phosphate companies that have in all good faith acquired these lease rights and made outlays of capital in reliance on the existence of the leases. The trade-off for leases on less sensitive land is fair and equitable and there is a remedy for court relief should the Administration not be able to work out the details with the companies involved. It is not our intention to shortchange anybody.

The phosphate in the Osceola can be held as a strategic reserve just in case we ever do need it. It appears that this will be a long time inasmuch as we presently export 59% of the phosphate mined in the United States. How can anybody possibly say that we need to mine the Osceola now?

H.R. 9 has been co-sponsored by the entire Florida House Delegation. I think this indicates how strongly we in Florida feel about this issue. The ban on phosphate mining is also endorsed by the Governor of Florida and by every member of Florida's independently elected state cabinet.

The public policy question is one that Congress must address and I think we must state unequivocably our resounding opposition to phosphate mining.

Mr. Chairman, I appreciate the opportunity to appear before you today and I shall be pleased to answer any questions.

Senator WALLOP. Thank you very much Congressman. I certainly emphasize with the points that you make. Coming from the State that I do, we recognize very clearly the value that an ongoing and renewable resource provides, especially in the area of recreation, which provides a stability in the economy that sometimes the industrial bases do not provide and certainly that mix is necessary.

You get a sympathetic ear from this subcommittee and I have spoken to Senator McClure on this. It is his feeling that any issue which has the full support of the State senators, whether they are of the same party or not bears very close scrutiny before the Congress walks off in another direction.

We in recent years have been tending to overlook that and to walk on the representatives of the States in many issues. I was happy to hear the chairman express that desire. I assume that we will find some means of resolving the issues in here and I think it will be equitable and I don't think we will depart too far from the courses and pathways that you all lay down.

We do have to address the other State's equity issue and I think we do. I am not worried about that. The obvious is the will that Florida has expressed, politically, the legislature, the Governors, Members of Congress and others, and the fact that they are willing to turn down some royalties and are willing to work to see that those equities are met as well.

We will find some means, I think.

Congressman, your colleague, Congressman Chappell, is not here and may not be able to make it, but we do have his statement and I would insert that in the record at this moment. Should he arrive he would be more than welcome at the witness table to make whatever additional comments he would like.

Thank you very much for coming.

Mr. FUQUA. Thank you.

Senator WALLOP. The next witness will be the Honorable Robert Graham, the Governor of the State of Florida. He is accompanied by Victoria Tschinkel.

[The prepared statement of Mr. Chappell follows:]

STATEMENT OF THE
HONORABLE BILL CHAPPELL, JR.
OF FLORIDA

Mr. Chairman, distinguished members of the Subcommittee, I appreciate this opportunity to come before you and I applaud the Subcommittee's timely consideration of H.R. 9. At the outset, I would like to say that my comments today will deal specifically with wilderness designations within the Fourth Congressional District. Those areas located within the Osceola National Forest will be addressed by my colleagues.

As you are aware, H.R. 9 would set aside approximately 26,870 acres in the Ocala National Forest as wilderness. The acreage in question is located in four scenic areas known as Juniper Prairie, Billies Bay, Alexander Springs, and Little Lake George. In each case, the land involved is ideally suited to the wilderness classification and represents a natural treasure worthy of preservation for future generations.

The Juniper Prairie wilderness proposal of 13,550 acres is located in the Ocala National Forest, Florida, and contains many shallow lakes rimmed by oaks, pond pine and slash pine and large areas of sand pine, palm trees, sawgrass, dense vegetation and a heavy bird population. These characteristics combine to create a subtropical atmosphere along Juniper Creek which bisects the Juniper Prairie acreage. Additionally, the area contains a section of the Florida Trail and is popular for compatible primitive recreation. Also located within Juniper Prairie is a facility known as the Sweetwater Cabin Administration Site, which is used by the Forest Service for management purposes. In order to ensure continued access to this facility, the bill you have before you provides for an approximately 340 acre exclusion.

The Billies Bay wilderness proposal of 3,120 acres is also located in the National Forest and is characterized by a vast swamp of palm, red maple, tupelo, cypress and scattered longleaf and sand pine stands. In addition to having abundant wildlife, including alligator, panther, deer and bear, this site is adjacent to the Alexander Springs recreation area and is also traversed by the Florida Trail.

The Alexander Springs wilderness proposal of 7,700 acres lies directly across the St. Johns River from the existing Lake Woodruff Wildlife Refuge and has, together with adjacent National Forest lands, been managed as the Alexander Springs Scenic Area since 1962. This area exhibits both eagle and osprey nests and has many significant archeological sites lying along Alexander Springs Creek.

The final area, Little Lake George, contains 2,500 acres in the Ocala National Forest and consists largely of a scenic subtropical swamp of cypress, ash, cabbage palm, and red maple. This area is prime habitat for the endangered Southern Bald Eagle, Florida Panther, alligator, bobcat, and also for the endangered Florida Manatee.

In conclusion, Mr. Chairman, the designated areas in the Ocala National Forest represent rich educational and recreational resources. Clearly, the sites involved are uniquely qualified for wilderness designation, and I am therefore pleased the Subcommittee has acted in such an expeditious manner.

STATEMENT OF HON. BOB GRAHAM, GOVERNOR, STATE OF FLORIDA, ACCOMPANIED BY VICTORIA TSCHINKEL, SECRETARY, FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

Governor **Graham**. Good morning, Mr. Chairman. I welcome this opportunity to meet with you today. I would express the regrets of the two legislators who were scheduled to be here. Our legislature has gone into a special session for purposes of State and congressional redistricting and fiscal matters and these two important members of the legislature are involved with conference committees on those items and therefore had to attend to their responsibilities in Tallahassee and ask me to convey their regrets, but their continued strong support for the position that you have heard outlined by the Senators and by Congressmen on this important matter.

I welcome this opportunity to support legislation that would prohibit strip mining for phosphate in the Osceola National Forest. My more detailed comments have been submitted to the subcommittee staff. Ms. Victoria Tschinkel, secretary of the Department of Environmental Regulation will present scientific and technical reasons for the State's unified opposition for strip mining in the forest.

Since 1971 the State of Florida has been on record in this protracted matter. We have consistently said that renewable forest resources and multiple recreational assets should not be sacrificed for short range exploitation of an exhaustible mineral resource. Nixon, Ford, and Carter administrations listened to what Florida had to say and responded with sensitivity and understanding for our environmental concern.

But now, under the Reagan administration, Florida's views are apparently being ignored by the Environmental Protection Agency, the Department of Agriculture, and the Department of Interior. Instead, we are even being told that strip mining and the exploiter's version of reclamation can actually improve forest and wildlife habitat.

Florida knows how draglines, dykes, slime, slurries, emissions can degrade land and water and air in the mining and processing of phosphates. We know because Florida produces about 75 percent of domestic phosphate and 32 percent of the world's production, Florida has accepted the environmental cost of producing phosphate and fertilizers to help feed the Nation and the world.

But this production comes from privately owned lands, not from a national forest that was established under the Whet's Act. Subsequently Congress in the Multiple Use Sustained Yield Act of 1960 broadened the public purposes of national forests to include renewable timber resources, wildlife, and the protection of watersheds, not phosphate mining. Phosphate from the Osceola is not needed now or in the foreseeable future. The market is glutted and unemployment prevalent in the phosphate belted central Florida.

The Osceola deposits should be considered as strategic reserves to be used only if a national emergency arises in the production of food and phosphate fertilizers are eight limiting factor to crops. Florida is burgeoning with people who need accessible natural areas to fish, hunt, hike, relax, swim, and commune with nature.

The Osceola offers all of these recreational assets in a location near the historic Suwannee River, the intersection of Interstate 10 and Interstate 75 and metropolitan Jacksonville, Florida's largest city. Conversion of a significant portion of this forest for strip mining, slime ponds, and lengthy reclamation projects would deny the public the full, continuing use of its forest.

As the Nation's overall fastest growing State, Florida will gain four new Congressman after the November election. All of our present 15 Congressmen and both of our U.S. Senators oppose strip mining in the Osceola, so does the statewide elected cabinet, the Florida Legislature, all of the State's natural resource agencies, all of the State's environmental organizations, major daily newspapers and smaller daily and weekly papers near the Osceola.

I have attached a list of 36 newspaper editorials opposing phosphate mining in the forest with my more detailed statement. My years in public office, I cannot recall another issue when the people of Florida, their elected representatives and the news media have been so united in defense of a natural resource.

Florida does not have sage brush. We do have a great deal of wetlands that we intend to protect, whether they are forested, flood plains or swamps, marshes or mangroves and whether they be State owned or federally owned. Florida has given nearly 100 million acres to the Federal Government for national parks, preserves, seashores, and refuges, included, an unprecedented $40 million and State-owned land for the big cyprus national preserve to help protect and enhance surface fresh water flow into the Everglades National Forest.

We plan to give thousands of acres more of State land for the Biscayne National Forest, the lower Suwannee national wildlife refuge and other cooperative State-Federal projects in Florida whenever the Interior Department is ready to complete these kinds of projects to protect and enhance existing national investments in natural areas.

We want you to help us protect the Osceola National Forest from strip mining. If this means a proposal to turn the forest over to Florida as a New Federalism initiative, than we are ready to negotiate an agreement to achieve State control and management in the public interest.

Thank you, Mr. Chairman.

[The prepared statement of Governor Graham follows:]

HONORABLE BOB GRAHAM
GOVERNOR

THE STATE OF FLORIDA

Mr. Chairman and Members of the Committee:

I am here today with other Florida officials to present the State's position on proposed strip mining for phosphate in the Osceola National Forest. We appreciate this opportunity to testify.

My remarks will be brief since many others wish to address you and Victoria Tschinkel, Secretary of the Florida Department of Environmental Regulation, will state our specific environmental concerns with mining in the Forest. Florida's Attorney General Jim Smith was not able to be present today, but I will present his comments for the record which deal with our view of the legal aspects of the proposed mining. State Senator Pete Skinner and Representative Steve Pajcic whose constituents will be greatly impacted by mining in the Osceola, will give the position of the Florida Legislature.

During my public career in Florida, I cannot recall an environmental issue which has so united Floridians. The unanimity of opposition to mining is unprecedented and comes from all sectors of our State. This mining is opposed by the entire Florida Congressional Delegation. Last week I signed into law a bill passed by the Legislature which imposes very strict new air and water quality standards affecting the Forest. Mining was first strongly opposed by my predecessor, Governor Askew, in a letter of July 26, 1971 to Rogers Morton, Secretary of the Interior. In November, 1981, the Florida Cabinet, who are elected statewide, passed a resolution opposing mining in the Forest. That resolution directs all appropriate State agencies "to pursue all administrative and judicial remedies available to prevent mining in the Osceola National Forest."

In 1974, the Florida Game and Fresh Water Fish Commission passed a resolution opposing mining. The other State environmental agencies--the Departments of Environmental Regulation and Natural Resources and the Division of Forestry of the Department of Agriculture--quickly followed suit as the environmental impacts on the resources became known during the Environmental Impact Statement process. The opposition to mining in the Osceola by the environmental professionals in the State agencies was, until the remarkable reversal of policy seen under the Reagan Administration, mirrored by professionals in the federal agencies. Until the change in Administration, the Department of Interior, the Department of Agriculture, the Environmental Protection Agency, the U. S. Forest Service, and the U. S. Fish and Wildlife Service all opposed mining in the Osceola.

The opposition to mining in Florida is by no means limited to State agencies and officials. I am aware of no locally elected official who supports mining. All of the State's conservation organizations oppose mining, and there have been editorials in every major State and regional newspaper opposing mining. I have never seen such editorial opposition on an issue. I feel the Committee should be aware of this, and copies of these editorials are attached. And as we meet, petitions are being circulated in north Florida cities opposing mining.

Florida's united opposition to phosphate mining in the Osceola National forest centers on the following major points:

1. Mining will have severe, unacceptable, and irreversible environmental impacts on the renewable resources and multiple uses of the Forest and adjacent areas outside the Forest, just as it has had in central Florida over the past 100 years.

2. There are at present no proven means to restore the wetlands and forested ecosystems of the Forest to their present value.

3. There is not now, nor will there be in the foreseeable future, any pressing need for phosphate from the Osceola.

Secretary Tschinkel will provide you with more details on the first point and related issues.

Generally, mining will degrade water quality, diminish both surface and ground water quantity, permanently eliminate thousands of acres of bottomland hardwood wetlands, disrupt and further endanger some 18 rare, threatened and endangered species, and result in the loss of millions of board feet of high quality saw timber. Exceptional recreational opportunities afforded by the Osceola will be impaired or eliminated just at a time when extraordinary population growth and land development are causing an ever greater need for recreational lands in Florida. Current reclamation technology holds little promise of restoring wetlands and forested ecosystems of the Osceola despite the claims of the Administration to the contrary. Restoration of these types of ecological systems is now almost entirely experimental in Florida. This has been documented in recent reports by EPA, Region IV personnel who conducted field trips to reclamation sites in Florida in November of last year. We strongly support such experimentation, but on private not public lands.

I am specially concerned about impacts on the Suwannee River. The Suwannee, designated as an "Outstanding Florida Water," is one of Florida's invaluable resources and the inspiration for the State song. As Governor, I have taken several steps to preserve this magnificent resource which retains its near pristine condition. Three of the streams which drain the Osceola and which would be degraded by mining or slime ponds are direct tributaries of the Suwannee.

There is no compelling reason to mine phosphate in the Osceola now. A far more compelling argument can be made for holding Osceola phosphate as a strategic reserve. Osceola deposits represent less than 3 percent of the total estimated minable reserves in Florida, or about one year of Florida's total annual production. There is considerable disagreement over the extent of Florida's phosphate deposits, but ultimate increased prices for phosphate will make more deposits economically recoverable. Phosphate is not needed now on either the national or world markets. There is now a major surplus of phosphate which is being stockpiled all over Florida, resulting in a 4 percent decrease in production from 1980 to 1981 and a significant level of unemployment among the phosphate industry's labor force. Most significantly, the average price per ton of phosphate has still not returned to its 1975 level of $25. Considering inflation, this means that phosphate is worth only about half of what it was 7 years ago. This is hardly the picture of a mineral in crucial demand.

Not mining phosphate now will in no way hurt the national interest. Florida is by far the largest supplier of phosphate products used in the United States, producing nearly 75 percent of total United States production, and at the same time, supplying 32 percent of total world exports.

In supporting legislation to prohibit strip mining in the Osceola, Florida is not shirking its responsibilities to help produce phosphate for our national agricultural needs. To date, about 170,000 acres have been strip mined in Florida and about 30 percent of these reclaimed. This much mining has resulted in the creation of over 55,000 acres of elevated clay settling or "slime ponds" which in some areas are 50 to 60 feet above natural ground level. Slime ponds are basically wastelands and will continue as such for an unknown number of years. About one-third or almost 20,000 acres of the land proposed to be mined in the Osceola would be devoted to these nonproductive above-grade wastelands. By the year 2000, an estimated 114,000 acres more will be mined. Overshadowed by its reputation as a subtropical mecca for tourists, Florida ranks first in the nation in production of nonmetallic minerals and sixth in production of all minerals.

Phosphate mining and processing have resulted in air and water pollution, aquifer declines, destruction of fish and wildlife habitat and radioactive gypsum and slime ponds. In short, Florida is doing more than its share to meet national and international needs for phosphate fertilizers to produce food, fiber and fuel at a considerable environmental cost. The Reagan Administration has apparently made a major reversal of federal policy on mining in the Osceola. In testimony before the House, Administration Representatives from the Environmental

Protection Agency and the Department of Agriculture stated that their positions favoring mining resulted from "recent developments" in reclamation technology which can restore wetlands and forested ecosystems. There have been no such developments or breakthroughs in reclamation technology to justify this reversal. Since this new policy was announced last fall, the State has made repeated efforts to discuss this issue with federal officials. So far, our efforts have been frustrating. State invitations to federal agency heads for them to come to Florida to visit the Forest and discuss this issue have been declined or ignored until last week. This past Monday, Paul Cahill, Director of EPA's Office of Federal Activities, did visit some mining and reclamation sites in central Florida with State personnel.

Our concerns about stipulations placed on mining leases by the U. S. Forest Service have been ignored and technical reports prepared by federal agency staffs have suddenly become unavailable or nonexistent. This disdain of Florida's concerns makes many Floridians wonder about the meaning and intent of the "New Federalism."

Florida's Attorney General Jim Smith has written Secretary Watt and advised him that he would personally initiate legal action if strip mining leases were issued. Other Florida officials strongly support our Attorney General's position. I greatly regret the collision course we are on with the Administration but Florida will take whatever steps are necessary to protect the renewable ecological and multiple recreational resources of the Osceola National Forest.

Thank you again for the opportunity to address you on this most important issue.

Senator **Wallop**. Thank you very much, Governor. Ms. Tschinkel.

STATEMENT OF VICTORIA TSCHINKEL, SECRETARY, FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

Ms. **Tschinkel**. Yes, Mr. Chairman, for the purposes of the record, I would like to ask that two documents be entered into the record of these proceedings. One item, I think, both items have been previously submitted to you and the orange document contains all of the testimony of the State officials that I would like to be submitted, which includes the information of the unanimous support on the part of the entire Florida Legislature delegation and includes the editorials that the Governor was talking about.

Senator **Wallop**. Ms. Tschinkel. I will tell you what we will do, unless there is major difference on the part of you or the Governor, is make those part of the file on this issue. There is enormous expense to reprint them so that they are a part of the hearing record. They will be referenced in the hearing record. They will be available and part of the entire data base.

Ms. **Tschinkel**. We just want to be sure the Congress will have them, however you feel that is appropriate. The second document is a response to the Federal agency's testimony and the industry testimony that was given to the House of Representatives on one of these bills, if that could be appropriately considered as well.

Senator **Wallop**. We will do that as well.

Ms. **Tschinkel**. Thank you very much. The reason for my speaking to you is to talk to you about two major environmental issues that I think have to be underscored in relationship to phosphate mining in Florida and the forest in particular. I will just make two points and I will try to give an illustration of those.

First of all, mining is going to have severe and for the large part largely irreversible impact on the forest and resources outside of the forest. The second major point which we have to make, because there has been a lot of testimony and evidence submitted at other times relating to this, there is absolutely no proven technology to restore the wetlands and the Osceola or to eliminate the need for thousands of acres of slime ponds in those forests.

I don't make those statements lightly. As the Governor mentioned, we have well over 100,000 acres in phosphate mining in Florida today. We are in the habit of regulating the phosphate industry in Florida. We have generally a good working relationship with the industry in Florida. They are making a lot of attempts to push the technology of restoration forward, but the restorations are largely in their infancy.

If you could go out on the restoration area and see that the largest trees that you would observe there would be chest height and those restored areas that have been done experimentally are at chest height because they were planted at waist height 4 years ago, you would understand that we are speaking the truth. There is no assurance that these areas can be restored.

You have a little problem, I think, with the problem of dealing with the companies that testified here and the companies that testified in Florida on the permits they get on the privately owned land. When we regulate them in Florida a number of the companies, and we have legal cases that are pending before the State relating to this, say that the sand-clay mix is not a state of the art technique. It is purely an experimental technique.

It is not proven. They do not want to be held to that in mining on private lands. That is what they are telling us right now. In addition on wetland areas what they are saying is we will go forward with several different experimental approaches as you require in order for them to attain permits.

And they are willing to perform those experiments for us on private lands. But our point of view is you don't perform experiments on publicly owned lands. It is not necessary to do that. There are plenty of other lands to be experimented on. And we have been pledging to work with the phosphate industry in Florida to do that and are doing that.

Now let me get to a few specifics. First of all, in the forest itself what the effect of mining will be. The ground water levels are going to be drawn down in both the surficial and flowing into the drinking water aquifers. There will be ecological effects on adjacent lands due to that.

The flow patterns of surface drainage will be drastically altered. When you phosphate mine as in any other strip mine, you are simply digging up the ground. These are headwater systems of the rivers in Florida. And essentially what you have is many, many small streams, like fine veins that reach out into the hold areas there. You cannot protect all of those little, fine veins of the systems that flow.

About 16,000 acres of unrestorable wetlands are included in the area under consideration. You have heard about how the timber resources would be lost from the area and you have heard information about how much loss there would be on an annual basis. And, of course, habitats for 11 threatened, endangered species and 6 species of special concern would be irreversibly destroyed.

Now, one interesting fact, I think, that was not mentioned relating to the recreational resources is that 513,000 visitor days are reported in the Osceola National Forest. That is approximately one visit a day for every citizen in Jacksonville. That essentially assumes that someone from Jacksonville enjoys that forest 1 day out of every year.

Now, impacts outside the forest, the ground water levels of the Florida aquifer would be drawn down as much as 5 feet in Lake City. There already are drought conditions in Lake City at this time and, of course, with our increasing population that can only get worse. The flow of White Springs itself, which is one of the headwaters of the Suwannee River, very well may be stopped based on the outside limits of the USGS calculation, what we consider to be the average possible drawdown, one of the major springs of the Suwannee River actually would stop flowing.

The base flow to the Suwannee River would decrease and you know that is in a drought condition right now. There are already discharges into the Suwannee River from Occidental Chemical which mines in the area. This would only exacerbate the problem there.

One of the things that is so frustrating to the State is that we have put a tremendous amount of State effort into protecting the Suwannee River, including a special Governor resource planning and management committee, designed specifically to save that important river. And here we have potential Federal action that can frustrate the attempts of the State to complete everything it has been wanting to do to protect the river.

Listen to all of the things that are happening around the Suwannee River on private lands right now. There are 10,000 platted lots in the basin already sold, in the Suwannee River basin. Occidental Chemical have already mined 7,000 acres adjacent to the Suwannee River and they are proposing to mine 27,000 acres by the year 2013.

Another headwater to the Suwannee River is being proposed for drainage from silviculture in Tin Hook Swamp. We have got a lot of development activity and private activity going on in the area.

Let me talk finally about the technology for restoration of the state of art for restoring phosphate mine lands. First of all with respect to wetlands restoration. Research on wetlands restoration has only begun in 1978. And you know from trees you have planted yourself in your own homes how big a tree gets in 4 years. If you go out onto the site where there has been study, the vast majority of seedlings are about 6 inches high. And I know because I have been out to see them myself.

I am not trying to belittle some of the early successes, because I think that would be extremely inappropriate. Some of the smaller little plants are now trees and that shows some early success and I am trying to take an optimistic and positive reinforcement. But these are not transferable to tree swamps and in those areas like we have in the Suwannee River, we really don't have enough information yet to even be optimistic, as much as we would like to be. Because we need to work with our phosphate industries in Florida now.

These wetlands are going to be rather, can have rather a monoculture aspect to them so their ability to survive drought and fire are very much unknown, not like a natural system that has a lot of built-in resistance, a lot of different species variability.

There is absolutely no guarantee that any kind of natural reseeding can occur. Once you plant something, you don't know whether that is the end of it or whether seeds are going to be able to come in from the side.

Finally, even though we have had some limited success in building artificial wetlands in Florida, there is not one site in Florida where the natural hydrologic conditions have been restored so we know that that system can maintain itself over time. Finally, with respect to reforestation and slime ponds. Our forestry people say that it takes about 20 years before you know whether you can develop commercially harvestable timber. On reclaimed areas, there has been testimony in the House that there is demonstration that natural restoration can occur on phosphate mined areas.

I need to point out that those areas where harvestable timber has been taken are areas that were mined prior to 1930, where there was a completely different type of mining technology used, that was a lot less destructive to the soil profile. So those trees that you are shown, and they generally are not fine timber trees, you cannot extrapolate that. You simply cannot do that.

With respect to slime ponds, 40 to 60 percent of the areas that are mined for phosphate have to be left in slime ponds under current technology. The U.S. Forest Service proposed stipulations that talk about temporary slime ponds have no meaning for us in Florida. Because slime ponds generally are expected to last 20 to 30 years unless one of these experimental approaches can be imposed.

The slime ponds develop into gradually more and more——

Senator WALLOP. Can you define for some of us coming from the West what a slime pond is?

Ms. TSCHINKEL. What happens when the phosphate is mined by taking essentially large bucket machines that come in and take big mouthfuls of the stuff and it is separated, the phosphatic ore is separated from the clays that are contained in the soil through a washing process, simply putting a lot of water in it. And the clays are washed out with a tremendous amount of water. There is only about 3 percent solids in this mixture and it has to go somewhere.

And so where it goes is, there is sort of a trench where all of the phosphatic ore came out of and they build large dykes around it, as high as 60 feet tall, although they can be less tall than that. We have some that are 30 feet tall around the State, I believe. What they do is they slurry the 3-percent solids and all of the water into these vast acreage of slime ponds, that they don't call that. I think they probably call them clay settling areas. And they prefer to be called that, which is fine.

Senator WALLOP. Who selected the name slime pond?

Ms. TSCHINKEL. I don't know. It has always been called that. In fact, I am sure they did until all of this controversy around. I mean for a long time they weren't considered to be so bad. They are very slippery. It is slick. It is just clay and water with a lot of water.

The problem with it is that it develops a colloid. And so the situation you have is that you cannot separate the clay from the water and the whole push of technology is to try to force that separation at an earlier time and there are various experimental techniques being tried and some with fairly good success to try to force that. Because without it it takes about 20 or 30 years for the water and the clay to separate.

The clay settling areas are highly eutrophicated and they do perform reasonable bird habitats for about 5 years and rapidly they fill up with cattails and they just sort of stay there unless you can accelerate that in some fashion.

Now, we have had a breakage of slime ponds, unfortunately not since 1970, but there was a terrible break in—I am sorry—clay settling area.

Senator WALLOP. Call it what you like.

Ms. TSCHINKEL. Whatever pleases you, I will say it that way. Anyway a dam broke and flooded the Peace River and there was a tremendous amount of fish killed. I believe the State has got fairly good regulations to protect against that occurring in the future.

So at this point in Florida what the companies are telling us is that they do not want to be held to that sand-clay mix experimental technology. And at this time I have gone out and seen at least one of those sites myself. I think there is some promise to it. But there is nothing major growing on it. The state of the art reclamation in Florida right now is back to pasture for cattle grazing and ultimately on to houses.

I think that summarized all of my comments except I want to make one final point. The State has a pretty strong regulatory program for working with the phosphate companies and I am sure they would be glad to tell you that it is very strong. Even so we do not have jurisdiction in regulating wetlands areas, nor does the Corps of Engineers in a lot of these isolated swamps that are very important headwater areas.

We would certainly, as a State, do our job in trying to regulate the phosphate industry in the forest or outside it. But our regulations are set up to be fair to people who are working on privately owned land that is for the purpose of private development.

On the other hand you should contrast, as was testified in front of our environmental regulation commission in Florida, that they do not believe that our State regulations apply to them in the national forest. So at least the companies are telling us in Florida that our regulations, although we do not believe sufficient to protect the national forest by any means would not even apply to them on their land.

So we are left with a situation that I simply do not believe the regulatory programs can take care of it to the degree that we need assurances of in Florida.

Thank you for being so patient with me.

[The prepared statement of Ms. Tschinkel follows:]

Testimony of Victoria Tschinkel

Secretary, Florida Department of Environmental Regulation

Mr. Chairman and Members of the Committee:

I am Victoria Tschinkel, Secretary of the Florida Department of Environmental Regulation. I am here on behalf of not only my agency, but also the other state environmental agencies in Florida--the Departments of Natural Resources, Agriculture and Consumer Affairs, and Veteran and Community Affairs, the Florida Game and Fresh Water Fish Commission and the Suwannee River Water Management District. These are the agencies which regulate, or are otherwise very familiar with, the environmental impacts of phosphate mining in Florida. Large scale, strip-mining as is proposed for the Osceola, has been underway in Florida for over 25 years. Regulatory programs under the purview of these agencies, include fish and wildlife protection, water quality, consumptive water use, surface water management, dredge and fill, air quality and reclamation. These programs have been gradually implemented since the early 1970's so that today, phosphate mining in Florida operates under a broad state regulatory framework, managed by experienced professionals.

I am here on behalf of these professionals and agencies to tell you quite unequivocally that phosphate mining in the Osceola National Forest is environmentally untenable and the impacts, unacceptable. Further, we are in total disagreement with representatives of the Administration and the potential lessees when they maintain that the Osceola can be restored with existing phosphate reclamation technology, to anything approaching its present values. Those of us who are familiar with phosphate mining and have to deal with its environmental consequences on a daily basis, are well aware that, despite the state's regulatory umbrella to protect environmental quality and require reclamation, and despite the on-going research and development and other good-faith efforts of Florida's phosphate companies, an area once mined is never the same again. Phosphate mining is of such a magnitude, and its environmental impacts are so devastating, that the mineral simply cannot be mined without some long-term environmental degradation.

Where phosphate is mined, environmental trade-offs must be made. Because phosphate is of such high economic and social value, mining is permitted in vast areas of private lands in Central and North Florida, and environmental conditions imposed by the state seek to assure that minimum air and water quality standards are maintained and that reasonable land uses are established. In these areas, however, unique or sensitive lands are excluded from mining. The pristine water quality found in Osceola streams, the dense hardwood swamp forests which comprise the Osceola wetland systems and the Forest's pine-palmetto flatwoods would be unacceptably degraded and in most instances, lost altogether.

Let me take a moment to tell you something about the Osceola National Forest. The Osceola is located in northeast Florida, in Baker and Columbia counties and comprises approximately 157,000 acres (Figures 1 and 2). It is a mosaic of pine flatwoods, bay and cypress swamps and bottomland hardwood forests. Most of the Osceola was acquired under the Weeks Act of 1911 for the specific purposes of timber production and watershed protection: approximately 107,000 thousand acres of the Osceola is in pine communities; and the Osceola's large swamp systems--Big Gum Swamp, Impassable Bay-- form the headwaters for tributary streams which flow westward to the Suwannee River or eastward to the St. Mary's River. These streams have extraordinarily high water quality, and are examples of waterbodies thus far unaffected by human activity.

The Osceola provides habitat for 18 Threatened and Endangered Species, including the Florida panther (recently named by the 1982 Florida Legislature as the official state animal), Florida black bear, bald eagle, sandhill crane, American alligator and red-cockaded woodpecker. A complete listing is shown in Table 1.

The Osceola is an important source of high quality saw timber. In 1980, the Osceola produced an estimated 26 million board-feet of saw logs, as well as some 8,000 tons of Stumpwood. The total value of timber products produced from the Forest in 1979 was $1,600,000.

The Forest is an important recreational resource for the growing population of North Florida. In federal Fiscal Year 1980, the Osceola provided approximately 513,000 visitor-days of recreational use. Important recreational activities include fishing, hunting, swimming, camping, canoeing and hiking. The Florida Trail, a highly valued and much used hiking trail, which runs the entire length of the state, has been completed for 22 miles through the Osceola and provides excellent back-country hiking.

I would now like to provide you with more details about the likely environmental impacts of mining and the feasibility of reclamation, based upon current state of the art technology. Additionally, I would like to advise you that the stipulations to the leases proposed by the U.S. Forest Service will not protect the ecological and recreational resources of Osceola. Finally, because the determination of a valuable deposit figures so prominently in both the proposed legislation and the issuance of leases, I would like to inform you of the applicability and requirements of state environmental laws. The basic point here is that much of the Osceola is probably not mineable under state law because water quality standards, dredge and fill requirements and other conditions will not be met. In this regard however, Osceola is no different than many other wetland areas in private ownership in Florida where phosphate deposits exist, but where mining is not permitted.

The State's position on mining of the Osceola was provided to the U.S. House of Representatives in November, 1981. This was in the form of a document which provided the State's detailed response to testimony by the Administration and the potential lessees on H.R. 9, Representative Fuqua's bill to prohibit mining in the Forest. The full title of that document is: _Response by the State of Florida to Testimony by the Phosphate Industry_ and the Administration Presented on October 22, 1982 Before the Subcommittee on Public Lands and National Parks of the House Committee on Interior and Insular Affairs On H.R. 9, A Bill to Prohibit Phosphate Mining in the Osceola National Forest. Since this report provides considerable information on phosphate mine reclamation and clay waste-handling technolgoy, I am requesting that it be entered into the record as part of my testimony, in addition to the remarks I am making today. Copies of the report have been provided to the Subcommittee members and staff.

Now let me state our major concerns:

1) Mining will have large-scale, adverse and unacceptable impacts on the land, water and wildlife resources of the Forest.

2) Adverse environmental impacts will also occur to resources outside of the Forest, particularly the Suwannee River.

3) There is now no proven reclamation technology which will allow for restoration of the wetlands and forested ecosystems of the Osceola to anything approaching their present value.

4) The state of the art of clay waste handling technology, including the sand-clay mix method, is such that thousands of acres of clay waste of slime ponds will be required to mine the Osceola.

5) The current uses of the Forest for recreation, timber, water quality protection and fish and wildlife habitat are highly valued by Floridians and will only increase in value as Florida continues its rapid growth; these uses will be severely disrupted by mining.

6) Mining is totally incompatible with the purposes for which the Forest was acquired and is being administered.

7) The unacceptable environmental impacts of mining and the inability to reclaim the existing resources of the Forest have long been recognized by every state and federal agency knowledgeable about the Forest and phosphate mining.

8) The Reagan Administration's support for issuance of the leases, based upon supposed recent developments in reclamation technolgoy is erroneous; there have been no recent breakthroughs to support a reversal of federal policy.

9) The stipulations to the leases proposed by the U.S. Forest Service are seriously inadequate to protect the resources of the Forest.

10) The determination of whether valuable deposits of phosphate exists in the Osceola must account for the requirements of state environmental laws since mining in much of the Osceola could not meet state standards.

There are some important facts regarding each of these concerns which need to be discussed in more detail.

1) Mining will have large-scale, adverse and unacceptable impacts on the land, water and wildlife resources of the Forest:

Phosphate mining leases are proposed to be issued for some 52,000 of the Osceola's 157,000 acres. Recoverable deposits are said to occur on about 28,000 acres of the Forest. Location of the proposed lease areas and deposits are shown in Figures 3 and 4. It is important to realize that the phosphate deposits in the Osceola are frequently co-located with the Forest's wetlands. This is clear from Table 2 which shows vegetation types in the Forest and lease areas. Mining will have an irretrievable and devastating effect on these wetland systems. As is discussed in more detail later, there is little hope with present reclamation technology that these wetlands can ever be restored. Other adverse effects are as follows:

a) Water Quality

Mining activities would degrade the water quality of several high quality streams in the Forest. The removal of vegetative cover would increase soil erosion and sedimentation in the rivers. Decreased levels of dissolved oxygen, higher temperatures and greater biochemical oxygen demand levels would occur. Discharges from mining activities would significantly lower chemical quality. Similar water bodies receiving effluent from other phosphate mining operations in other parts of the state inevitably contain higher concentrations of dissolved solids, sulfate, fluorides, phosphorus, nitrogen and suspended sediment, and have a higher pH than unaffected streams. It is important to emphasize that the streams which would receive mining discharges--Deep, Robinson and Falling Creeks, and the Middle Prong of the St. Mary's River--presently have extraordinarily high water quality. These are pristine systems which show us what water quality can be without the effects of human intrusion.

b) Water Quantity:

Phosphate mining and beneficiation require prodigious amounts of water and some depletion of ground water supplies will occur. The surficial aquifer will be dewatered as a standard mining process. In addition, the potentiometric surface of the drinking water, artesian Floridan Aquifer will be significantly lowered. The hydrology of surface streams would be irrevocably changed by mining and drainage basins and flow patterns will be altered.

Streams receiving effluent would experience an average increase in flow of 40%, thus subtantially altering the natural hydroperiod and potentially resulting in channel scour, streambank erosion and destruction of vegetation and aquatic habitat.

c) Fish and Wildlife and their Habitats:

On January 16, 1980, the Director of the U.S. Fish and Wildlife Service wrote the Director of BLM to advise him:

> "of our position of opposition to lease issuance and mining activity within the Forest, based on the total magnitude of adverse impacts to fish and wildlife and their habitats."

There are many thousands of acres in the lease application areas, that contain fragile ecosystems and habitats essential to the continued existence of important fish and wildlife resources. The Fish and Wildlife Service position further states that:

> "phosphate mining cannot be accomplished without major long term irreversible impacts to valuable fish and wildlife resources associated with the existing habitats in the proposed lease areas."

Adverse impacts include loss of, or threat to, the habitat and existence of 18 Threatened or Endangered Species. Since areas surrounding the Forest are at or near their carrying capacity, the wildlife in the Osceola cannot simply "move over" as mining occurs. Therefore, signficant portions of populations of these animals could be irretrievably lost. Moreover, it is important to note that residential development, intensive silviculture, mining and other land development is greatly increasing in North Florida. Large, well buffered, relatively remote habitats such as occur in Osceola are becoming increasingly rare. Without such areas, many Endangered Species are doomed in a high growth state like Florida. In our judgment, phosphate mining in the Osceola flies directly in the face of the major national goal of saving Endangered Species.

d) Timber

One of the primary purposes for which the Osceola was acquired was for timber production. An estimated 26 million board feet of timber was harvested in 1980. According to the Environmental Impact Statement (EIS), there will be 4.5 million board feet of permanent growth loss annually on the 28,000 acres proposed for mining, at the conclusion of mining. According to the Florida Division of Forestry, based on the average stumpage rate, this amounts to a conservative estimate of an annual stumpage loss of $656,000, not including pulpwood production. According to forest economic literature, this translates into $16,400,000 loss of gross national product annually. Although mining is proposed for only 30 years, at the present time these annual costs must be considered to last indefinitely given the lack of any proven technology for reforestation on phosphate mined lands.

2) Adverse environmental impacts will also occur to resources outside of the Forest, particularly the Suwannee River:

Impacts of mining in the Forest will not be limited to the Forest boundaries. This is especially true of impacts on water resources. The Suwannee River Water Management District--the state agency responsible for consumptive use, artificial recharge and surface water management regulation--estimates that groundwater pumping for mining in the Osceola will cause drawdowns in the potentiometric surface of the potable Floridan Aquifer at the cities of Lake City and White Springs by up to 5 feet. Such a drawdown will also significantly lower groundwater baseflow to the Suwannee River, and would probably result in the cessation of flow of White Springs--the first of a series of major springs which discharge to the Suwannee. The spring site, located just outside of the City of White Springs, has been restored and because of its historical significance, has been incorporated within the Stephen Foster Memorial Park located on the Suwannee.

Of even greater concern are the impacts on water quality in the Suwannee, resulting from mining discharges in the Forest to Deep and Robinson Creeks. These are direct tributaries to the Suwannee. Water quality data collected for nearly identical tributaries which receive mining effluent from the Occidental Chemical Company on the other side of the river (Hunter and

Swift Creeks) shows that the water quality of the Suwannee has been degraded from these sources. The impacts on Suwannee River water quality from a third Osceola tributary--Falling Creek--are less certain because this stream disappears into a sinkhole just outside the Forest and re-emerges some distance later to flow into the Suwannee. However, since this sinkhole is directly connected to the Floridan Aquifer--the sole source of drinking water in this region of Florida--a serious question of potential pollution of potable groundwater must be raised.

It should be born in mind that the Suwannee River is one of Florida's--and the Nation's--most magnificent natural resources. The Suwannee is now subject to encroaching development and existing mining discharges from Occidental Chemical. The State is therefore taking all steps within its power to preserve this exceptional ecological and recreational resource, including the designation of the river as an Outstanding Florida Water (the state's most protective water quality classification), and the recent initiation of an aggressive land acquisition program to acquire the river's most important wetlands. The state's program to protect the Suwannee has already been dealt a blow by the recent federal decision not to fund further acquisitions in the Lower Suwannee National Wildlife Refuge (located at the mouth of the Suwannee near the Gulf of Mexico). Issuance of leases for phosphate mining in the Osceola will only further frustrate the state's cause.

3) There is now no proven reclamation technology which will allow for restoration of the wetlands and forested ecosystems of the Osceola to anything approaching their present value.

Research on wetlands reclamation has been carried out only since 1978. While some initial results are encouraging it is too early to determine the long-term success of creating a functional wetland system. The technology developed is still in the research or demonstration phase. Several companies have just initiated large-scale wetland projects that will provide very valuable information, but which are too new to have produced results at this time.

Considerable planning is necessary to establish wetland habitats that do not become congested with one or two species such as cattail. Not only do slopes have to be carfully designed, but water level fluctuations need to be carefully predicted to optimize the chances of creating wetland habitats. Although we hope that this type of detailed planning can be included in routine reclamation procedures, we have seen little evidence that this is occurring today. More importantly, the majority of initial wetland reclamation successes have been with herbaceous wetlands. There is less evidence that the vastly more complex hardwood swamp wetlands of the type found in Osceola can be restored.

There are several factors which cannot be overlooked in predicting the performance of recently reclaimed wetland sites. One is the lack of any long-term data on these sites. We cannot assume, for instance, that initial successes in establishing wetland trees will lead to success in maintaining growth over an extended period of time, through natural regeneration, or natural succession. This factor is especially important to the Osceola since most of its existing wetlands are forested. Nor have we had sufficient time to determine how recently completed experimental sites, will withstand stresses such as fire and drought that our native wetlands have evolved with. In addition, no scientific evaluation of different sand-clay soils, which would apparently dominate a post-mining Osceola landscape, has been attempted. Moreover, natural plant invasion and subsequent plant succession is clearly the most economical method of revegetating properly contoured areas. However, natural dispersal and establishment is very site and species specific. In addition to having proper moisture regimes, the proximity to seed-sources and the type of seen sources available are critical factors in natural revegetation.

See Attachment 1 for further details on the state of the art of wetlands restoration on phosphate reclaimed lands. Also see the State's response to the October, 1981 testimony by the Administration and phosphate industry before the House Subcommittee on Public Lands and National Parks for additional discussion

Regarding reforestation of uplands, research is also in its early stages. Data is being gathered which will allow an objective evaluation of the success of tree planting on overburden, sand tailings and consolidated clay wastes. Since maturation of trees is slow, much time is necessary to evaluate success of reforestation projects. The Florida Division of Forestry is conducting research in this area and believes that reclamation technology to return forestland to a productive state is 10 to 20 years in the future and certainly does not exist today.

Attachment 2 provides further discussion by the Florida Division of Forestry on reforestation on phosphate reclaimed lands.

U.S. Forest Service personnel in Tallahassee concur that trees must grow for at least 20 years before any definitive statements can be made that reforestation has been successful. Furthermore, the trees in the Osceola are managed for sawtimber production, requiring 60 to 70 years of growth.

The phosphate industry frequently points out that there are mature (slash pine) trees on reclaimed lands that have growth rates comparable or better than the same species on native soils. However, trees of this age (20 years +) are restricted to older sites which were mined for pebble phosphate, prior to the use of modern, large-scale beneficiation type mining, where mining cuts are much deeper and far more disruptive of soil conditions. Essentially all of the tree plantings on new sites are too recent to give any indication of the productivity of the site for tree growth. On most of these "soils" tree planting is very difficult due to the heavy nature of the soil, and first year mortality of seedlings out-planted frequently makes it necessary to replant an area two or even three times to establish an adequate stocking of trees.

It is evident that reclamation techniques necessary to restore the resources of the Osceola, are highly experimental. There is much research being done on private lands by both the government and the industry on reclamation of phosphate mined lands. A recent EPA-Region IV field report (See Attachment 3) summarizes 27 projects being undertaken at 16 different sites of 9 companies. The State of Florida strongly supports this research, but it is totally unacceptable to use the public lands of the Osceola National Forest for a testing ground.

In conclusion, a January, 1980 memorandum from EPA-Region IV to EPA-Washington on the proposed mining in the Osceola succinctly describes what we can realistically expect from reclamation:

> "Given the present technology and the proposed methods of mining the best that can be hoped for is the conversion of a forest ecosystem to a lake-pasture ecosystem."

4) The state of the art of clay waste handling technology, including the sand-clay mix method, is such that thousands of acres of clay waste or slime ponds will be required to mine the Osceola:

Even if the technology for revegetation of ecological systems did exist a key factor in reclaiming or restoring the wetlands and forests of the Osceola is the ability to reestablish the topography and appropriate soil profiles. The ability to establish these critical factors would be greatly hampered or be impossible because of the present state of the art of clay waste handling.

Clay wastes from the processing of the phosphate product are traditionally disposed of in the abovegrade settling ponds surrounded by dikes as high as 60 feet. These ponds, commonly called "slime ponds", take unknown numbers of decades to settle and dewater and at present are only being reclaimed as 600 to 1000 acre elevated pastures. In the meantime, these settling ponds pose many problems, including large amounts of water being entrapped as interstitial water, loss of large land areas for other useful purposes, threat of water pollution caused by dam failure and high construction and maintenance costs. The major problem facing the phosphate industry today is the elimination of these abovegrade settling ponds, which cover 40 - 60% of the total mined area.

Clay waste disposal research is focusing on three experimental techniques, flocculation dewatering of slimes, mixing sand tailings with slimes and application of pressure by capping. Sand-clay mixing is one of the most promising techniques for reducing abovegrade settling; however, its potential for success is very site specific, and to date, very limited.

The "sand-spray" and "multiple discharge" techniques tried by Brewster Phosphates since 1973 have been plagued by problems.

This is significant because Brewster served as the on-site model for the development of the U.S. Forest Service stipulations.

Other, newer sand-clay mix methods and clay-flocculent mix methods appear to provide better mixing for quicker dewatering; however, these are also still experimental.

The State of Florida is strongly encouraging phosphate companies to undertake experimental work in sand-clay and flocculent disposal techniques. The Florida Department of Natural Resources feels it will be a better approach to clay disposal in the long run. However, it is important to note that the use of sand-clay will still require the use of 10 foot to 12 foot dikes abovegrade; that early settling will be more quickly accomplished but the final stages will continue to be a long-term process; and that, because of these factors, the final land-forms and ecological systems which these areas will support is still speculative.

In its report on the state of the art of reclamation for phosphate mined lands following field investigations in November - December 1981, (Attachment 3), EPA-Region IV personnel found only one site, where planting was done on areas reclaimed by sand-clay mix. However, these were planted on a sand tailings or overburden cap and not directly on the sand-clay mix. According to the EPA report,

> "because of the unproven status of the sand-clay mix methodology, the incomplete mixing which has resulted at Brewster's sites, the lack of direct planting experi-

> ments in sand-clay mix, and the absence of quantitative data on plant growth and subsidence, we conclude that it is premature to make any definitive statement regarding the success of the sand-clay mix method for reclaiming phosphate lands to diverse plant communities"

To provide background for development of lease stipulations for phosphate mining in the Osceola, the U.S. Forest Service evaluated Brewster's sand-clay mix reclamation project. Although the Forest Service report concluded that "it appears that a soil can be created with sand-clay ratios that would provide a satisfactory physical medium for a wide variety of agronomic plants, shrubs and trees", it is difficult to see the basis for this recommendation, since the last conclusion in the section on "Forest Growth Capability" stated:

> "It is estimated that plant communities on the Osceola National Forest would be very difficult to reestablish and productivity levels would be low on land reclaimed by the observed Brewster process."

The state response to the October, 1981, testimony by the Administration and phosphate industry before the House previously cited, provides considerable additional information on the state of the art of clay waste disposal.

5) The current uses of the Forest for recreation, timber, water quality protection and fish and wildlife habitat are highly valued by Floridians and will only increase in value as Florida continues its rapid growth; these uses will be severely disrupted by mining.

The Osceola is currently heavily used for recreation, timber, water quality protection and fish and wildlife. As previously noted, the Osceola provided for over one-half million visitor-days of recreation use in 1980 and over 26 million board feet of saw timber. These uses will be severely impaired by phosphate mining. At the same time, because of continued high population growth and development of surrounding areas, the role of the Osceola in providing for these uses will greatly increase in the future.

Looking at population growth, Florida's population grew by an astounding 43% between 1970 and 1980, and is projected to increase another 26% by 1990. Growth is not just occuring in South Florida. Table 3 provides data on projected population increases for Standard Metropolitan Statistical Areas within one hour's drive of the Osceola. This area includes the City of Jacksonville, Florida's largest city.

Further, it should be noted that land development pressure in north Florida for agriculture, mining, silviculture and residential development is greatly increasing. The Occidental Chemical Company has already mined some 7,000 acres for phosphate in adjacent Hamilton County on the other side of the river, and anticipates mining some 27,000 acres by 2013. A vast peat mining project is proposed for the

5,000 acre Santa Fe Swamp, by Georgia-Pacific, located some 40 miles to the southeast (the Santa Fe Swamp is in turn, the headwaters for yet another important Suwannee tributary, the Santa Fe River). Just to the north of the Osceola, a massive drainage and silviculture project is proposed for Pinhook Swamp, a northward extension of the wetlands system found in the Osceola. And in terms of residential development, there are now over 10,000 platted, sold residential lots in the Suwannee River Basin. In summary, the Osceola cannot be viewed in a vacuum; the value of its existing resources, which would be devastated by mining, will become more and more important as time goes on.

6) Mining is totally incompatible with the purposes for which the Forest was acquired and is being administered.

The Osceola National Forest was acquired under the Weeks Act of 1911 for the specific purposes of timber management and watershed protection. Phosphate mining was never considered in this acquisition and is clearly incompatible with these purposes. The Forest is presently managed pursuant to the Multiple Use-Sustained Yield Act of 1960 for recreation, range, timber, watershed protection and fish and wildlife habitat. Again, phosphate mining is totally incompatible with these uses and will in effect, convert over a third of the Forest to the single-purpose use of mineral production.

7) The unacceptable environmental impacts of mining and the inability to reclaim the existing resources of the Forest have long been recognized by every state and federal agency knowledgeable about the Forest and phosphate mining:

Since 1973, Florida's environmental agencies have been opposed to mining in the Osceola, both because of the unacceptable environmental impacts of mining, and because it is clear that current reclamation technology cannot restore the hardwood swamps and forests of the Osceola. Prior to the current Administration, this opposition was mirrored by key federal agencies as well. In January, 1980, the Environmental Protection Agency reaffirmed its 1974 position and declared the mining was "environmentally unsatisfactory". In furtherance of this position, EPA referred the matter to the President's Council on Environmental Quality. As recently as April 1981, the U.S. Department of Agriculture stated that "our review of the leases in question revealed that the reclamation techniques were not such as to insure that the lands in question could be properly reclaimed at the completion of mining". In January, 1980, the U.S. Fish and Wildlife Service stated its "position of opposition to lease issuance and mining activity within the Forest, based on the total magnitude of adverse impacts to fish and wildlife and their habitats." And in May, 1980, Secretary of Interior Cecil Andrus determined that "the Department should support legislation which precludes mineral development in Osceola National Forest."

8) The Reagan Administration's support for issuance of the leases, based upon supposed recent developments in reclamation technology is erroneous; there have been no recent breakthroughs to support a reversal of federal policy:

The position of the federal government towards mining in the Osceola took a remarkable turn with the advent of the Reagan Administration. In April, 1981, the position of USDA was that "reclamation techniques were not such as to insure that the lands in question could be properly reclaimed." Only six months later, in testimony before the House Subcommittee on Public Lands and National Parks on October 22, 1981, USDA Secretary Crowell stated:

> "In the last few months, there have been a series of meetings with industry representatives to review current reclamation technolgoy used in central Florida to reclaim phosphate mining areas. Preliminary on-the-ground review of mining areas indicates that satisfactory soil conditions can be created by proper planning and execution of the mining and reclamation process. Reclamation to date has been satisfactory for establishment of shallow-rooted vegetation to meet State reclamation requirements. Observations indicate that technology to establish shallow-rooted species can be further refined to create soil conditions satosfactory for tree growth, although we have not seen or tested such results."

Similarly, as discussed in 3) and 7) above, EPA's position prior to the Reagan Administration was that mining was "environmentally unsatisfactory" due in large part to the severe limitations of reclamation technology. Yet, by October, 1981, Paul Cahill, Director of the Office of Federal Activities for EPA was able to testify that:

> "...there have been significant technological advancements in the phosphate industry. These have reduced some of our original concerns with phosphate mining in Osceola National Forest."

There have been no "significant technological advancements" to justify the reversal of the federal government's position. As is made clear in the discussion under 3) above, there is now no technology which can assure restoration of the Osceola. The Administration's position cannot, in our judgment, be supported on technical grounds.

9) The stipulations to the leases proposed by the U.S. Forest Service are seriously inadequate to protect the resources of the Forest:

Pursuant to Section 3 of the Mineral Leasing Act for Acquired Lands Act of 1947 (61 Stat. 913; 30 U.S.C. 351-359), the Secretary of the Department of Agriculture is required to establish those conditions necessary to "insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered." Beginning in late summer 1981, the U.S. Forest Service initiated the drafting of these lease stipulations. The State of Florida has watched the development of these stipulations as they worked their way up the Forest Service hierarchy from the Forest Supervisor for the National Forests in Florida, through the Regional Forestor in Atlanta and finally as transmitted by the Chief of the U.S. Forest Service to the Bureau of Land Management on February 3, 1982. At each stage the stipulations became so weakened that the final product will do little, if anything, to protect the unique resources of the Osceola. The State of Florida was never consulted in the development of these stipulations, although at least one potential lessee--Kerr-McGee -- was sent drafts of the stipulations for review as they were developed. Nevertheless, the state sent Secretary John Block, on December 12, 1981, an unsolicited, detailed critique of the draft stipulations as they appeared after modification by the Regional Forester in Atlanta. Our comments were ignored in the final stipulations. More surprisingly however, the comments of both the EPA and the U.S. Fish and Wildlife Service were also ignored by USDA. Copies of the final stipulations and comments by the State, EPA and the Fish and Wildlife Service are included as Attachment 4.

Thus, the detailed concerns of those entities most knowledgeable about the impacts of phosphate mining are not addressed by the stipulations. The final stipulations will not protect Endangered Species habitat, set no limits on the total acreage of permanent lakes created by mining, rely upon unproven technologies for wetlands restoration and reforestation and in direct opposition to the recommendations of the Forest Supervisor for National Forests in Florida, allow "temporary" slime ponds to be located in the Forest. Under current technology, "temporary" makes no sense; we know of no such thing. As described elsewhere, we can anticipate 10,000 - 15,000 acres of slime ponds in the Forest. Additional weaknesses in the stipulations are obvious from reading the attached comments from the State, EPA and USFWS.

10) The determination of whether valuable deposits of phosphate exists in the Osceola must account for the requirements of state environmental laws since mining in much of the Osceola could not meet state standards:

Section 313 of the federal Clean Water Act makes it clear that the activities of the federal government must comply with state water quality standards, and under Section 401 of the Act, the state must certify that a proposed activity by the federal government, or that of any lessee on federal property, will not violate state water quality standards. State certification would apply to the issuance of NPDES permits for stationary sources by EPA and Section 404 permits issued by the Army Corps of Engineers. In addition, pursuant to Chapters 253 and 403, Florida Statutes, the state would assert not only water quality standards authority, but also dredge and fill authority. The landward extent of the State's dredge and fill jurisdiction is determined by analysis of vegetative communities, while the Corps asserts jurisdiction up to a 5 cubic feet per second demarkation line.

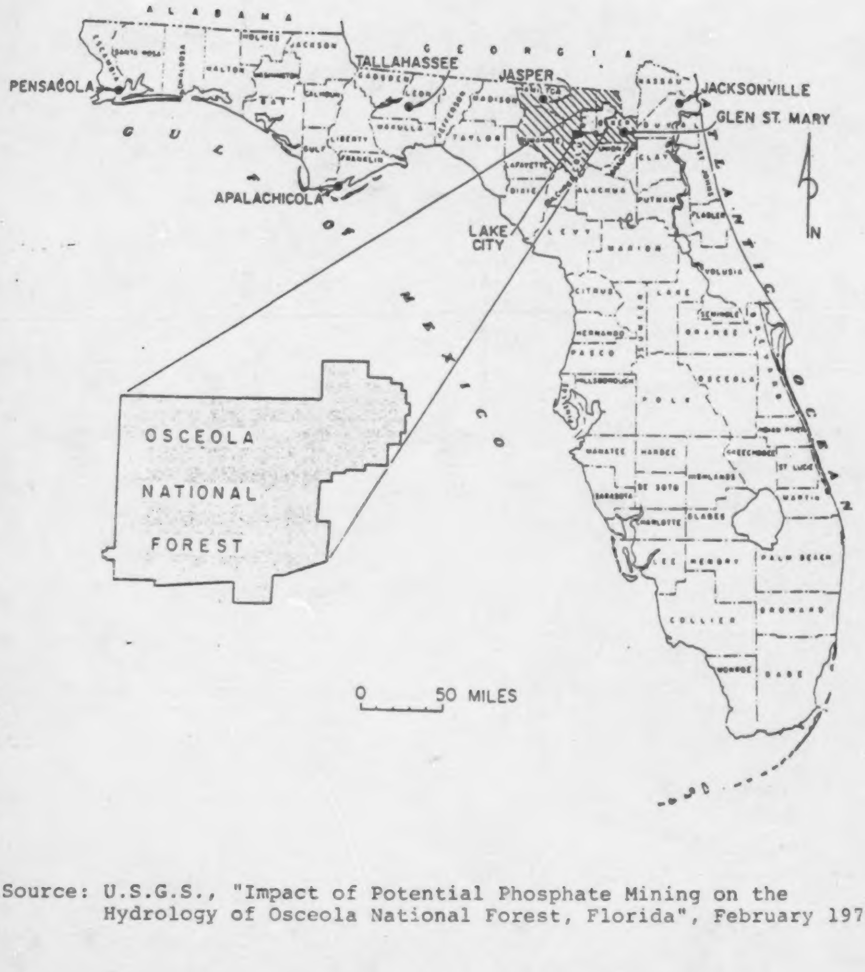
It is important that the actual value of the deposits in the Osceola be evaluated in this regulatory context because, quite simply, much of the area containing deposits is not mineable under state or federal law. Based upon preliminary state review of vegetative and topographic maps, and some inspection of the Forest, we estimate that the Corps of Engineers will assert 404 authority over approximately 12,000 of the 23,500 acres in which workable deposits are said to exist. The state would assert jurisdiction over about 10,000 of these 12,000 acres. Therefore, roughly one-half of the total area containing deposits will fall under the purview of state water quality standards and any activities within these areas will have to meet standards. Regarding water quality standards, the Florida Legislature, in the 1982 Legislative Session, passed a law prohibiting the issuance of any permits for any mining activity which would degrade the ambient water quality of the waters within any state or national park or forest. Therefore, pursuant to this new law, the applicable water quality standard for waters within the Osceola National Forest is the existing ambient water quality. Since the existing ambient water quality in these streams is extraordinarily high, it is doubtful that mining in any of these areas would be permittable. Mining on the remaining 12,000 acres not under Corps or state jurisdiction may be mineable, provided however, that discharges to surface waters in the Forest do not degrade ambient water quality. Since any discharge from a phosphate mining activity most likely cannot achieve this level of quality, all water utilized by mining, in addition to all rainfall and stormwater runoff, would most likely have to be treated extensively or retained on-site. This is a very costly way to mine but not prohibitively so, since a new mine to be started soon in Central Florida plans to be operated on such a near no-discharge basis.

Mr. Chairman, let me conclude my testimony with a final fact. The companies who propose to mine in the Osceola National Forest have made sweeping statements about their ability to mine without slime ponds and to recreate functional wetlands and forested ecosystems. Yet the companies which presently mine in Florida and therefore, are subject to the reality of compliance with state regulatory requirements, have insisted that all techniques for clay waste disposal other than traditional clay settling ponds, and the recreation of wetlands be considered strictly experimental by the state. Until these major hurdles in phosphate mining are overcome, there should be no phosphate mining on these public lands.

Thank you for the opportunity to address you on this most important issue. I would be glad to answer any questions.

FIGURE #1

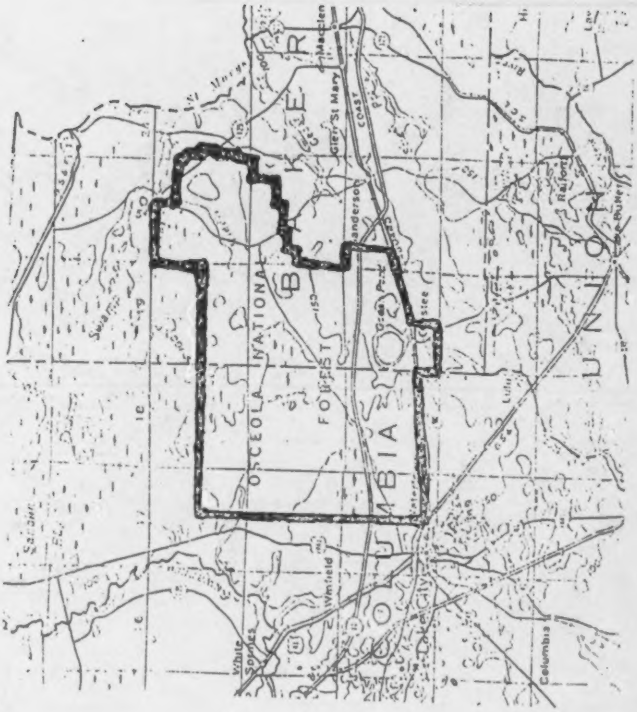
LOCATION OF OSCEOLA NATIONAL FOREST


ALABAMA
GEORGIA
PENSACOLA
TALLAHASSEE
JASPER
JACKSONVILLE
GLEN ST. MARY
APALACHICOLA
LAKE CITY
GULF OF MEXICO
ATLANTIC OCEAN
N
OSCEOLA NATIONAL FOREST
0 50 MILES

Source: U.S.G.S., "Impact of Potential Phosphate Mining on the Hydrology of Osceola National Forest, Florida", February 1978.

FIGURE #2

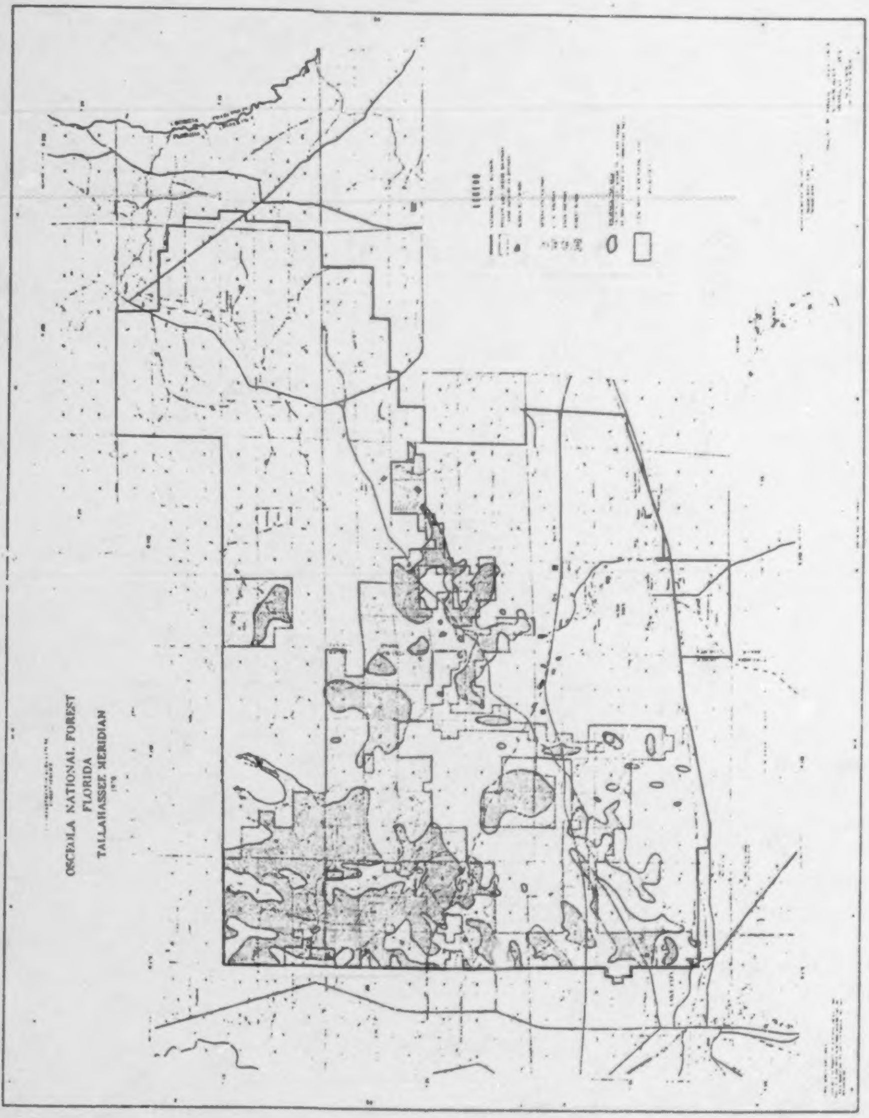
OSCEOLA NATIONAL FOREST - LOCATION MAP


OSCEOLA NATIONAL FOREST
BAKER
COLUMBIA
UNION
Macclen
Glen St Mary
Sanderson
Olustee
Lake City
White Springs
Columbia
Raiford
Lulu

Source: U.S.G.S.

FIGURE #3

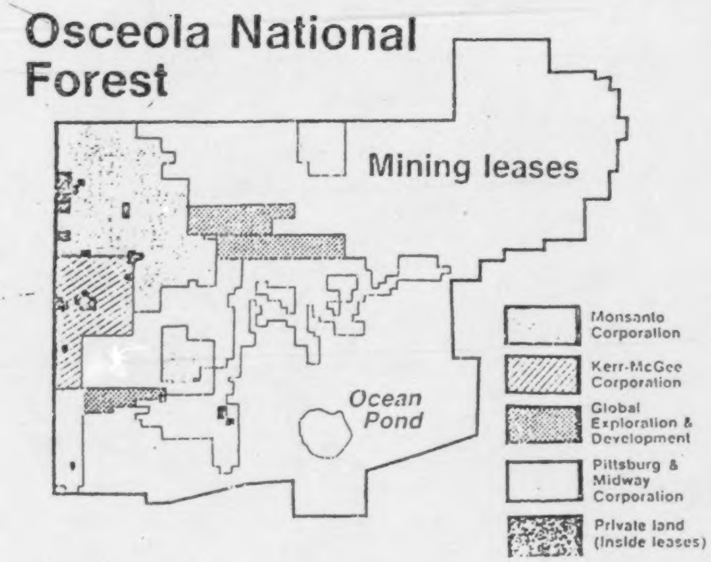
PHOSPHATE DEPOSITS


OSCEOLA NATIONAL FOREST
FLORIDA
TALLAHASSEE MERIDIAN

Source: U.S. Department of the Interior, "Final EIS Phosphate Leasing on the Osceola National Forest, Florida", June 1974.

FIGURE #4

LEASE AREAS


Osceola National Forest
Mining leases
Ocean Pond
Monsanto Corporation
Kerr-McGee Corporation
Global Exploration & Development
Pittsburg & Midway Corporation
Private land (inside leases)

Source: Jacksonville Times-Union

Table #1

ENDANGERED AND THREATENED SPECIES

Osceola National Forest

Bald eagle (potential)	T	E
Red-cockaded woodpecker	T	E
Florida sandhill crane	T	-
Southeastern kestrel	T	-
Wood stork	E	-
Kirtland's warbler (uncertain/migrant)	E	E
Littel blue heron	SSC	-
Louisiana heron	SSC	-
Snowy egret	SSC	-
Limpkin	SSC	-
Gray bat	E	E
Florida panther (potential)	E	E
Florida black bear (legally hunted)[4]	-	-
Sherman's fox squirrel	SSC	-
Eastern indigo snake	T	T
American alligator	SSC	T
Gopher turtle	SSC	-
Short-tailed snake (possible)	T	UR

[1] E - Endangered; T - Threatened; SSC - Species of Special Concern and UR - Under Review (for possible listing).

[2] Florida Game and Fresh Water Fish Commission

[3] U. S. Fish and Wildlife Service

[4] The Flroida black bear is a state-designated threatened species except in the Apalachicola National Forest and Baker and Columbia Counties, where they exist in sufficient numbers to allow bear hunting.

SOURCE: Florida Game and Fresh Water Fish Commission, Personal Communication with Randy Kautz, February, 1982 and List of Florida's Endangered and Threatened Species, April, 1981.

Table #2

VEGETATION TYPES ON THE OSCEOLA NATIONAL FOREST

Vegetative Type	Acres of Veg. Type in ONF	Percent of Veg. Type within ONF	Acres of Veg. Type within Lease Applic. Area	Percent of Total Veg. Type within Lease Applic. Area
A. PINELAND SYSTEMS				
1. High pineland				
a. Turkey oak phase	700	0.4	163	23
b. Old Field phase	525	0.3	0	0
Total High pineland	1,225	0.8	163	13
2. Pine-palmetto flatwoods				
a. Longleaf pine phase	26,195	17	8,152	31
b. Slash pine phase	74,043	47	27,504	37
c. Longleaf pine-slash pine phase	5,724	4	974	17
d. Pond pine phase	small acreage			
Total Pine-palmetto flatwoods	105,962	67	36,630	35
TOTAL PINELAND SYSTEMS	107,187	68	36,793	34
B. BAY SYSTEMS				
1. Cypress swamps				
a. Pond cypress-blackgum phase	25,045	16	7,421	29
b. Pond cypress-slash pine phase	4,393	3	3,310	75
c. Cypress domes (Cypress ponds)	698*	--	293*	42
d. Bold cypress-blackgum ash phase	small acreage			
Total Cypress swamps phase	29,438	19	10,731	36
2. Bay swamps				
a. Mixed bay swamp (bayhead)	14,972	9	3,993	26
b. Fetterbush swamp (shrub bog; pocosin)	4,295	3	361	8
Total Bay swamps	19,267	12	4,354	22
TOTAL BAY SYSTEMS	48,705	31	15,085	30
C. RIVER SYSTEMS				
1. Creek Swamps	1,340	0.9	845	63
2. Hammocks	Not measurable			
TOTAL RIVER SYSTEMS	1,340	0.9	845	63

Number of cypress domes 10 acres or less in area recognized on soil survey.

Source: U.S. Department of the Interior, "Final EIS Phosphate Leasing on the Osceola National Forest, Florida", June 1974.

Table #3

POPULATION GROWTH IN S.M.S.A.'s LOCATED WITHIN ONE HOURS DRIVE OF OSCEOLA NATIONAL FOREST

National Forest	S.M.S.A.	1970 Population	1980 Population (% Increase)	1990 Projected Population (% Increase)
Osceola	Jacksonville - Duval, Baker, Clay, Nassau and St. Johns Counties	621,827	737,519 (19%)	836,900 (14%)
	Gainesville - Alachua County	104,764	151,348 (45%)	191,400 (27%)
	TOTAL	726,591	888,867 (22%)	1,028,300 (16%)

Source: University of Florida, "1981 Florida Statistical Abstract", 1981.

Senator WALLOP. Are phosphates exempted from the surface mining?

Governor GRAHAM. Yes.

Senator WALLOP. Are they exempted by the Florida Legislature?

Governor GRAHAM. They were exempted by either an act of the Congress, either by——

Senator WALLOP. I did not mean the statement—I do not know the history. I was here but I cannot recall.

Ms. TSCHINKEL. I don't know the Federal history. We have a reclamation law in Florida that the Florida Legislature did pass and, in fact, here with me is Casey Glickman, who directs that reclamation program, if you have any specific questions concerning that. But I think I have told you what the state of the art is in reclamation in the State's prospective.

Senator WALLOP. Governor, what percent of the phosphate reserves in Florida are on privately owned property?

Governor GRAHAM. The estimate that I saw for the Osceola, which would be the major nonprivately owned property, represented 120 million tons, which would be about 2½ years of production. Congressman Fuqua testified that the Florida Phosphate Council estimates 200 years of production capability so that would indicate, if those figures were relatively correct, that well over 90 percent of the reserves are in privately held properties.

Senator WALLOP. Is the rest or the biggest part of the phosphate mining now carried out on private properties?

Governor GRAHAM. Yes. In fact, I cannot think of another example other than the proposed Osceola Forest, for example, in which phosphate mining is being conducted on public lands.

Senator WALLOP. Do you have the authority through Florida law to regulate surface mines on private land?

Governor GRAHAM. Yes. With particular emphasis on the water quality aspects which are administered through the Department of Environmental Regulation, headed by Ms. Tschinkel and the reclamation process under the State's Department of Natural Resources.

Senator WALLOP. Are the Florida standards stricter than Federal standards for the reclamation, mining——

Governor GRAHAM. There are no Federal standards for reclamation of phosphate. As Ms. Tschinkel indicated phosphate represents an unusual resource in a number of ways. One of those is that at the conclusion of the mining process you have an overburden which is quantitatively substantially greater in the order of three times more than what was taken out in the initial extraction process and so you have the problem of creating storage capacity through the creation of these impoundment areas that have a volume of capacity substantially greater than the area that was originally strip mined.

Senator WALLOP. Would you continue to permit that though as the State versus the older form of mining which Ms. Tschinkel said certainly is more environmentally accepted?

Governor GRAHAM. To my knowledge in my 20-plus years of involvement as a citizen and as a member of the legislature and now the Governor, this process that I have just described has been the standard technology in the industry. It has been in fairly recent years that various techniques have been experimented with that will attempt to speed up the process of hardening of these slime ponds, so that they will more quickly be brought into a period, into a state of solidity that will allow them to be used for agriculture or other purposes.

Senator WALLOP. What was the technology that was used, mining technique that was used prior to that?

Ms. TSCHINKEL. Mr. Chairman, it was a dry mining technology. They essentially went after individual pieces of rock. It is called pebble mining. They went in after much larger pieces of material and it was discontinued, I believe, in 1925 or 1930, about that time and I am sure it would be totally economically untenable to mine phosphate with that technology now.

Senator WALLOP. Ms. Tschinkel, I would appreciate it from the subcommittee's standpoint if you would provide for us an assessment, because as you point to me in your testimony here, in some respects you contradict the findings of the administration with respect to the final supplemental environmental impact statement, with respect to the impact of the surface mining in Osceola.

If you could provide us with an assessment with both of those statements and tell us where you believe these documents are deficient that would be helpful.

Ms. TSCHINKEL. I think that there are two areas of deficiency that I really see. One is the necessity for doing a very much up to the minute study of phosphate mining reclamation techniques in Florida, because that is where all of this type of work is done. Recently the Environmental Protection Agency did a fairly substantial report and we have included that.

It is not an official report of the agency, but Mr. Cahill had asked for a report. I think it was completed about 1 month or 6 weeks ago. And I think that will update the environmental impact statement with respect to the ability to reclaim wetland areas in particular.

I think the second issue that really needs to be updated is the issue of the ability of the forest to restore itself ecologically or be restored ecologically. And I think if one states what actually is occurring in Florida right now rather than what would hope to come about in experiments that are expected to be conducted over the next 10 or 20 years, we would have an accurate environmental impact statement.

Senator WALLOP. What you are saying is that nobody knows who is right yet. The information as yet does not appear.

Ms. TSCHINKEL. The only right statement you can make is that there is no data to support the fact that these areas can be restored, either the uplands or the wetland areas to anything resembling what they originally were. There are some data support that some type of wetlands may be restorable.

These plots, most of them are 20 acres large. We are talking about thousands of acres, none of them having natural hydrology restored to them. This depends on how optimistic you want to be.

Senator WALLOP. If you could submit that information for more detail, we would appreciate it.

Ms. TSCHINKEL. We would be glad to do that.

Senator WALLOP. Thank you very much.

Governor **Graham**. Mr. Chairman, if I could conclude with two observations. One, I would like to restate the unity of Floridians on this issue. I have been involved as a State official since 1966 during many very controversial environmental economic issues. I have known none of those issues which had the unified opposition that the proposal for strip mining in Osceola has generated from our 15 Members of Congress, two U.S. Senators, the Governor, and all members of the State cabinet, the State legislature, the major State environmental agencies, the major State environmental private organizations, and all of the major State newspapers, a tremendous front of opposition to this proposal.

The second is that this issue raises what in my mind is a very fundamentally important and to date not adequately assessed national issue and that is what is the Nation's policy toward this exhaustable natural resource. We have been through in the past decade the consequence of the Nation not having an effective policy on petroleum resources. And we have paid a tremendous price in economic and social disruption because of it.

In many ways phosphate has the same qualities, if not more so, because it goes to the fundamental capacity of our Nation to feed itself and the world. We cannot have the agriculture that is known in your region of the country as well as ours without the resource that is available through phosphate.

We have heard testimony that indicates that we have a 200-year supply. I might comment that that estimate is based upon substantially greater costs 30 years down the stream than we are currently imposing. That is we actually have at current standards of cost and technology about a 30-year supply of phosphate left in Florida, which represents three-quarters of the Nation's supply.

After that we are going to be at a much higher level of cost and a much more demanding technology to continue production. The question is what should the Nation's policy be about the use of this phosphate resource? We are now exporting over half of the phosphate that is being mined. In that in the national interest?

We have a relatively minor use, zero use to date of publicly owned lands for phosphate production. Is it appropriate to use those publicly owned lands now or should they at least be placed in reserve status at such time as there is a national emergency that would justify those public resources being drawn upon.

I think those are some fundamental issues which cry out for national resolution, and I would submit that possibly this committee be a forum in which those questions could be articulated and direction started.

Senator **Wallop**. Thank you very much, Governor and Ms. Tschinkel.

Our next witness is the Assistant Secretary for Natural Resources and Environment, Department of Agriculture, Hon. John Crowell.

STATEMENT OF HON. JOHN B. CROWELL, JR., ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY HOWARD BANTA, DIRECTOR, MINERALS AND GEOLOGY MANAGEMENT STAFF, THE FOREST SERVICE

Mr. CROWELL. Good morning, Mr. Chairman. I have with me at the witness table Mr. Howard Banta, who is the Director of the Minerals and Geology Managment staff of the Forest Service. He will be available to help me in responding to technical questions, which I may not be able to answer.

The subcommittee has requested the administration's views on two bills which would add roadless areas on three Florida national forests to the national wilderness system and on two additional bills, which would prohibit phosphate mining on the Osceola National Forest.

I will comment first on the proposed additions to the wilderness system. H.R. 9 and S. 1873 propose six new wildernesses totaling 47,980 acres and one 1,170-acre addition to an existing wilderness. The areas are on the Apalachicola, the Osceola, and the Ocala National Forests in Florida.

All seven of the areas now proposed for wilderness designation by the bills were included in the second roadless area review and evaluation—RARE II—conducted by the Forest Service during the last administration. We support six of the seven proposals for additions to wilderness.

The one we do not support is the proposed Big Gum Swamp wilderness on the Osceola National Forest. About one-fourth of the area included in the proposed Big Gum Swamp wilderness is presently subject to preference right lease applications for phosphate mining. Until the legal ramifications of those applications are ultimately determined, we recommend deferring designation of any part of the Big Gum Swamp as wilderness.

We have a number of technical suggestions regarding the boundaries and designations for one or another of the other six wilderness proposals. The details of which are set out in my prepared statement. And I would ask at this time that the full statement be included as part of the record.

Senator WALLOP. It will be made a part of the record.

Mr. CROWELL. I will not endeavor to summarize what those technical suggestions are. We note that neither of the wilderness bills includes provision for release of nonwilderness areas, nor does it set specific time limits for congressional action on recommendations for additional wilderness which may be generated from the further planning process.

It is the administration's position that these concepts are of such importance that no additions to the wilderness system should be made without providing at the same time equally assured status to unroaded lands designated for multi uses other than wilderness by RARE II or which may be recommended for wilderness as a result of the further planning process.

We therefore urge that language embodying these concepts be included in any Florida wilderness legislation that the committee may choose to recommend. All four of the bills currently under consideration by the committee would prohibit phosphate mining and the issuance of mineral leases on the Osceola National Forest.

The bills differ in how they provide for determining the value of the mineral interest or how they would compensate the lease applicants. We have a number of major concerns about the phosphate provisions of all four bills. Because of the progress being made in reclamation technology, the cost and difficulties associated with the proposed exchanges and the likelihood that a purchase of mineral rights could result in substantial costs to the United States, we do not believe it is necessary or desirable to withdraw the Osceola National Forest from phosphate leasing nor to terminate leases through exchange or acquisition.

The leasing provisions of the Mineral Leasing Act of 1920 authorizes the Secretary of the Interior to issue exclusive 2-year prospecting permits to qualified applicants where prospecting or exploratory work is necessary to determine the existence or workability of deposits.

The Secretary of the Interior is further authorized to renew those permits under certain circumstances. If the permitee shows the Secretary that valuable deposits have been discovered, the permitee is entitled to a lease for all or any of the land under the prospecting permit.

The Mineral Leasing Act for acquired lands of August 7, 1947, which authorizes leasing of minerals on certain acquired lands under the same conditions as those in the Mineral Leasing Act specifically establishes the role of the Secretary of Agriculture in consenting to the leasing of mineral deposits on national forest system lands.

The Secretary of Agriculture may prescribe conditions to insure the adequate utilization of the land for the primary purposes for which those lands were originally acquired. The Osceola National Forest consists of lands which were acquired under authority of the Weeks law.

Although the Secretary of Agriculture is not authorized to deny the issuance of leases, the statute permits the Secretary to prescribe conditions to protect the affected area so that its primary purposes will not be lost. The primary purposes for which lands were acquired under the Weeks law were to assure a perpetual supply of timber and to assure a water flow. Those were the governing standards by which the Secretary's conditions to be imposed upon any mining activity on a national forest acquired under the Weeks law would be governed.

Pursuant to the above-mentioned provisions of law 92 prospecting permits covering about 144,000 acres in the Osceola National Forest were issued between 1965 and 1968. During the period from July 1969 through May 1972, 41 applications for preference right phosphate leases, covering about 52,000 acres of the lands which were subject to the permits, were filed by 4 companies. No leases had yet been issued.

So it has been between 10 and 14 years since these preference lease applications have been pending. The standard permit issued for phosphate prospecting in the Osceola contains a list of special stipulations. Stipulation No. 3 states, "In the event the permitee makes application for mining lease on any lands under this permit the Forest Service reserves the right to include in such mining lease special stipulations to protect surface values."

It is clear from this provision that the Forest Service at the time it consented to issuance of the prospecting permit recognized its right to reserve the authority to protect the surface of the lands in the Osceola through lease stipulations to be currently worked out or subsequently worked out.

By its signature, the permitted agreed to those terms of the permit. These statutory and contractual authorities provide ample support for the Secretary of Agriculture to impose lease restrictions on the mining companies in order to protect the values for which the Osceola National Forest lands were acquired under the Weeks law.

In the last few months, more than that now, almost a year, there have been meetings with industry representatives to review newly developed reclamation technology, which has been used in central Florida to reclaim phosphate mining areas. On-the-ground review of mining areas indicates that satisfactory soil conditions can be created for the purposes of re-establishing plant growth and tree growth.

Application of this newly developed technology in the last several years has been satisfactory for establishment of shallow-rooted vegetation to meet reclamation requirements. And indications are strong that this technology can be extended to establish satisfartory tree growth, although there has not been time since development of the technology to test those results for certain.

The Forest Service has developed lease stipulations that will assure affected sites are reclaimed for timber production and for other resource uses and that a necessary balance between uplands and Wetlands is achieved. The Secretary of the Interior can now complete the administrative process to determine if the valuable deposit requirement, which is a precedent for leasing, has been satisfied.

This determination compares all of the estimated costs for developing and operating the mine with estimated revenues. The determination takes into account the cost of compliance with all applicable mining, surface protection and reclamation requirements. The completion of this process will determine if economic deposits exist and thus whether the permittees are entitled to preference right leases or not.

Section 4(b) of S. 1873 and H.R. 9 directs the Secretary of the Interior to make a determination of "valuable deposit" based on the regulations in effect as of the date of lease applications, which was between July 1969 and May 1972, instead of the more stringent standards as promulgated by the Secretary of the Interior on May 7, 1976.

The earlier regulation basically states that the determination can be made without consideration of costs associated with adherence to environmental stipulations. This provision would allow the determination of valuable deposits to be made, taking into account only mining costs, which would be used in the decision, and therefore leaving out of account the cost of complying with environmental protection, and would give an unrealistic estimate of the total cost of mining and therefore an overestimate of the value of the deposits.

Any determination should take into account compliance with all applicable mining, surface protection and reclamation requirements. So this is a provision, which we think needs some work, if the committee is going to consider adopting section 4(b) of either of those bills.

We have concerns about the feasibility and costs of the exchanges which are proposed by those two bills. The experience in dealing with exchanges of mineral interest indicates the process for identifying and evaluating minerals which are suitable for exchange is an extremely time consuming process and is very difficult one to ultimately work through to agreement with the other parties.

Assuming the Secretary of Agriculture and the lease applicants in this case can agree on terms for restoration after mining, the Secretary of the Interior conceivably could determine that deposits of substantial value exist.

Under the proposed provisions of S. 1872, S. 1633, and H.R. 9 a preference right applicant could obtain in exchange for his preference right and without competitive bidding, a lease of substantially equal value for another mineral. In such cases the Federal Government, as well as the States in which the new leaseholds are located, which are primarily States in the West, will lose substantial bonus revenues, which are estimated at $25 to $50 million.

Now, a bonus revenue is one which is recognized or realized by the Government upon offering potential leases for competitive bidding. The bonus is the amount offered above a minimum through the competitive bidding process.

As I say the estimate provided to us by the Department of the Interior is that as much as $25 to $50 million could be foregone in bonus payments through these exchange provisions. Now, 50 percent of any such bonus revenue would go to the State in which the new lease is issued.

Taxpayers in those affected States therefore would lose revenues as a result of any action with respect to these Florida exchanges. They could include phosphates in Idaho, coal in Wyoming and Montana, and oil and gas in Arkansas as well as in other States. The States would suffer significant financial losses if the noncompetitive leases were given in exchange for other minerals.

Furthermore, by enactment of any of the bills under consideration today, the United States will also be deprived of the rentals and royalties which could have been derived from Osceola phosphate leases. There are estimated to be 100 to 120 million tons of phosphate in the Osceola National Forest. Incidentally, also I am aware that there are estimates that go far higher than that, but these seem to be the most reasonable estimates available to us at the present time.

They have a current market value of, once they have been extracted and processed, $30 per ton. Mining the resource would return about $150 to $180 million in royalty payments over the life of the mines with those royalty payments to be shared by the Federal Government and the State of Florida.

The royalty payments are computed on the basis of $1.50 per ton. There are other costs, of course, too. The United States would be denied the corporate and personal income taxes that would ensue from development of the phosphate in the Osceola National Forest.

Another difficulty with the provisions of a couple of these bills is that the Department of Justice has identified legal problems with them. It is an unresolved legal question whether an arbitration procedure establishing a legally binding determination of property value denies the owners of those rights due process under the fifth amendment.

An additional issue is whether a statute can set and can limit compensation to either the exchange of interests and rights or to monetary credits to be used for the purchase of rights. Furthermore, establishment of fair market value is normally the function of the judiciary and not of an arbitration commission.

In summary, we oppose the provisions of these bills that would prohibit phosphate leasing on the Osceola National Forest and that would terminate leases through exchange or acquisition. We believe it is not necessary or desirable to withdraw the Osceola National Forest from phosphate leasing.

We believe that the terms of the stipulations, which the Forest Service has developed and has recommended to the Secretary of the Interior be incorporated in any leases, can achieve an adequate reclamation of the mined areas under technology, which has been newly developed, so that we do not need to forego the other benefits which can accrue from mining the phosphate on the Osceola.

We believe that an appropriate balancing of the competing interests can be achieved through this technology and for all of these reasons, therefore, are recommending that these provisions of the bill not be enacted.

[The prepared statement of Mr. Crowell follows:]

STATEMENT OF
JOHN B. CROWELL, JR., ASSISTANT SECRETARY
FOR NATURAL RESOURCES AND ENVIRONMENT
U.S. DEPARTMENT OF AGRICULTURE

Before the Subcommittee on Public Lands and Reserved Water
Committee on Energy and Natural Resources
United States Senate

On H.R. 9, S. 1138, S. 1633, and S. 1873. Bills to designate wilderness and prohibit phosphate mining on certain National Forest System lands in the State of Florida.

April 1, 1982

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am pleased to have this opportunity to present the Administration's views on two bills, H.R. 9 and S. 1873, that would expand the National Wilderness Preservation System in the State of Florida and also include provisions regarding issuance of phosphate leases on the Osceola National Forest and two additional bills, S. 1138 and S. 1633, that would prohibit phosphate mining on the Osceola National Forest.

I will comment on the wilderness proposals and the phosphate lease provisions. The wilderness proposals outlined in H.R. 9 and S. 1873 include six new wildernesses totaling 47,980 acres and one 1,170-acre addition to an existing wilderness. The proposals are located on the three National Forests in Florida, the Apalachicola in the northwest part of the State, the Osceola in the northcentral part, and the Ocala to the south.

WILDERNESS DESIGNATIONS

All seven wilderness proposals are roadless or undeveloped areas on National Forest System lands in Florida that were included in the Second Roadless Area Review and Evaluation (RARE II). We support the wildernesses proposed in H.R. 9 and S. 1873 except the Big Gum Swamp wilderness. We recommend that the Big Gum

Swamp area not be designated as wilderness at this time. Applications are pending on phosphate preference right leases on about one quarter of the tract. Until the Secretary of the Interior determines whether the preference right leases should be issued and also provides a better idea of the location and value of the mineral deposits, we recommend deferral of this wilderness designation.

The proposed Mud Swamp/New River wilderness included in H.R. 9 and S. 1873 encompasses essentially the same area as considered during RARE II except both bills also include a 2 1/2-mile corridor along the New River at the northwest corner of the area. We recommend that this corridor be excluded from the proposal because it is separated from the area by a frequently used forest road and concrete bridge. Furthermore, the 2 1/2-mile long, half-mile wide corridor, along the New River would be difficult to manage for wilderness purposes because of its elongated shape and lack of on-the-ground boundary features.

The Mud Swamp area without the New River addition would be a suitable addition to the Wilderness system and includes extensive swamp and forest habitat for a variety of wildlife, including alligator, and Florida panthers (cougars). Accordingly, we suggest the name be changed to "Mud Swamp Wilderness." We also recommend a minor boundary adjustment to eliminate 2.5 acres of private lands located outside the National Forest proclamation boundary.

WILDERNESS BOUNDARIES

We recommend using 100' offset from centerline of roads for wilderness boundaries which parallel those roads. This offset distance assures exclusion of most road right-of-way and occasional roadside facilities while providing some uniformity among wilderness. We do recommend using 66' offset for the Bradwell Bay addition in order to be consistent with the existing 66' offset on Bradwell Bay wilderness. We also recommend 150' offset for the west boundary of Billies Bay to avoid a powerline along FS-38 right-of-way. We can provide the committee with a set of maps denoting these recommended offsets.

Section 1 of both H.R. 9 and S. 1873 refers to the Wilderness Act (16 U.S.C. 1131 et seq.). This could lead to confusion since the Eastern Wilderness Act is codified in 16 U.S.C. 1132. We recommend that the citation be changed to read: The Wilderness Act of 1964 (78 Stat. 890).

PHOSPHATE PROVISIONS

All four bills contain major provisions regarding the phosphate mining and leasing issue on the Osceola National Forest. All bills would prohibit phosphate mining or the issuance of leases. The bills differ in the methods for determining value of the mineral interest and for compensating the lease applicants.

We have a number of major concerns about the phosphate provisions of all four bills. Because of the progress being made in reclamation technology, the costs and difficulties associated with the proposed exchanges, and the likelihood that a purchase of mineral rights could result in substantial costs to the United States, we do not believe it is necessary or desirable to withdraw the Osceola National Forest from phosphate leasing, nor terminate leases through exchange or acquisition.

The leasing provisions of the Mineral Leasing Act of 1920 authorize the Secretary of the Interior to issue exclusive 2-year prospecting permits to qualified applicants where prospecting or exploratory work is necessary to determine the existence or workability of deposits. The Secretary of the Interior is further authorized to renew such permits under certain circumstances. If the permittee shows the Secretary that valuable deposits have been discovered, the permittee is entitled to a lease for all or any of the land under the prospecting permit.

The Mineral Leasing Act for Acquired Lands of August 7, 1947, which authorizes leasing of minerals on certain acquired lands under the same conditions as those in the Mineral Leasing Act, specifically establishes the role of the Secretary of Agriculture in consenting to the leasing of mineral deposits on National Forest System lands. The Secretary of Agriculture may prescribe conditions to insure the adequate utilization of the lands for the primary purposes for which they have been acquired. The Osceola National Forest consists of lands which were acquired under authority of the Weeks Law (36 Stat. 961, as amended; 16 U.S.C. 515).

Although the Secretary of Agriculture is not authorized to deny the issuance of leases, the statute permits the Secretary to prescribe conditions to protect the affected area so that its primary purposes will not be lost. Pursuant to the above mentioned provisions, 92 prospecting permits covering about 144,000 acres in the Osceola National Forest were issued between 1965 and 1968. During the period from July 1969 through May 1972, 41 applications for preference right phosphate leases covering about 52,000 acres of the permitted lands were filed by four companies. No leases have yet been issued.

The standard permit issued for phosphate prospecting in the Osceola contains a list of special stipulations. Stipulation No. 3 states: "In the event the permittee makes application for mining lease on any lands under this permit the Forest Service reserves the right to include in such mining lease special stipulations to protect surface values." It is clear from this provision that the Forest Service, at the time it consented to issuance of the prospecting permit recognized its right to reserve the authority to protect the surface of the lands in the Osceola through lease stipulations. By its signature, the permittee agreed to the terms of the permit, including the authority to exercise this reserved right by the Forest Service. These statutory and contractual authorities provide ample support for the Secretary of Agriculture to impose lease restrictions on the mining companies in order to protect the primary surface values in the Osceola National Forest.

In the last few months, there have been meetings with industry representatives to review newly developed reclamation technology which has been used in central Florida to reclaim phosphate mining areas. On-the-ground review of mining areas indicates that satisfactory soil conditions can be created. Application of this newly developed technology in the last several years has been satisfactory for establishment of shallow-rooted vegetation to meet reclamation requirements. Indications are strong that this technology can be extended to establish satisfactory tree growth, although there has not been time since development of the technology to test such results.

The Forest Service has developed lease stipulations that will assure affected sites are reclaimed for timber production and other resource uses and that a necessary balance between uplands and wetlands is achieved.

The Secretary of the Interior can complete the administrative process to determine if the valuable deposit requirement for leasing has been satisfied. This determination compares all the estimated costs of developing and operating the mine with estimated revenues. The determination takes into account cost of compliance with all applicable mining, surface protection, and reclamation requirements. The completion of this process will determine if economic deposits exist and thus whether the permittees are entitled to preference right leases.

Section 4(b) of S. 1873 and H.R. 9 directs the Secretary of the Interior to make a determination of "valuable deposit" based on the regulations in effect as of the date of lease applications (July 1969-May 1972) instead of the more stringent standards as promulgated by the Secretary of the Interior on May 7, 1976. The earlier regulation basically states that the determination can be made without consideration of costs associated with adherence to environmental stipulations. This provision would allow that only mining costs would be used in the decision, and therefore, would not be a realistic estimate of the total costs. Any determination should take into account compliance with all applicable mining, surface protection, and reclamation requirements.

We have concerns about the feasibility and costs of the exchange proposed in these bills. Experience with exchanges of mineral interest indicates the process for identifying and evaluating minerals suitable for exchange is extremely time consuming and that it is difficult to reach agreement on value. Assuming the Secretary of Agriculture and the lease applicants can agree on terms for restoration after mining, the Secretary of the Interior could determine that deposits of substantial value exist.

Under S. 1873, S. 1633, and H.R. 9, a preference right applicant could obtain in exchange for his preference right and without competitive bidding, a lease of substantially equal value for another mineral. In such cases, the Federal Government--as well as the States in which the new leaseholds are located, primarly those in the West--will lose substantial bonus revenues, which are estimated at $25 to 50 million. Fifty percent of such bonus revenues would have gone to the States in which the new leases are issued. Taxpayers in those affected States will lose these revenues as a result of the Florida action. They could include phosphates in Idaho, coal in Wyoming and Montana, oil and gas in Arkansas as well as in the other States. The States would suffer significant financial losses if the noncompetitive leases were given in exchange for other minerals.

By enactment of any of the bills under consideration today, the United States will also be deprived of the rentals and royalties which could have been derived from Osceola phosphate leases. There are about 100 to 120 million tons of phosphate in the Osceola National Forest having current market value of $30 per ton. Mining the resource would return about $150 to 180 million in royalty payments over the life of the mines to be shared by Federal Government and State. There are other costs. The United States would be denied the corporate and personal income taxes that would ensue from development of the phosphate in the Osceola National Forest.

This Administration is opposed to such exchanges or purchases for the reason that the prospector accepted permits with the contractual understanding that the Secretary of Agriculture had the right to stipulate mining and reclamation requirements for environmental protection. No right of ownership has been conveyed by the Government. Only if a determination that a valuable deposit exists does a lease applicant have a compensable right. The exchange provisions of section 4 of S. 1873 and H.R. 9 could be construed to give lease applicants an undetermined value of the phosphates by law--such value to be subject to a mineral exchange or cash. Section 4(g) gives the lease applicant an effective veto of exchange values which could result in litigation to determine the amount of cash payment.

Recently, the Department of Justice identified legal problems associated with H.R. 5161 concerning the arbitration provisions of section 4(d). We would like to point out similar legal concerns with respect to section 4 of H.R. 9 and S. 1873. It is an unresolved legal question whether an arbitration procedure establishing a legally binding determination of property values denies the owners of those rights due process under the 5th Amendment. An additional issue is whether a statute can set and limit compensation to either the exchange of interests and rights or to monetary credits to be used for the purchase of rights. Furthermore, establishment of fair market value is normally the function of the judiciary.

In summary, we oppose the provisions of these bills that would prohibit phosphate leasing on the Osceola National Forest, and that would terminate leases through exchange or acquisition. The legislation could establish compensable rights for the mining companies that they do not now own, and could create an artificially high price for those newly created compensable rights. Furthermore, the Federal taxpayer could be required to pay the mining companies an artificially high price for these newly created rights with either cash or Federally owned assets. We believe it is not necessary or desirable to withdraw the Osceola National Forest from phosphate leasing.

We note that neither of the wilderness bills includes provision for release of nonwilderness areas nor does it set specific time limits for congressional action on recommendations for additional wilderness which may be generated from the further planning process. It is the Administration's position that these concepts are of such importance that no additions to the Wilderness System should be made without providing at the same time equally assured status to unroaded lands designated for multiple uses other than wilderness in RARE II, or which may be recommended for wilderness as a result of the further planning process. We, therefore, urge that language embodying these concepts be included in any Florida wilderness legislation.

Mr. Chairman, this completes my statement. I would be happy to respond to your questions.

Senator WALLOP. Thank you very much, Mr. Crowell. In your testimony stating that the administration believes that it is neither necessary nor desirable to withdraw the Osceola National Forest from phosphate or to terminate the leases through exchange or acquisition, you mentioned that progress was being made in reclamation technology.

I wonder if you would specify to the subcommittee what that progress is and what the reclamation problems in the Osceola are and in essence what protections you see in that technology for problems that have been identified today.

Mr. CROWELL. One of the major reasons why the Department of the Interior and the Department of Agriculture have not previously moved on processing the lease applications was the fact that we were unconvinced that there was technology available to restore the mined areas to the capability of growing trees and to assuring water flows which were the purposes for which the lands were acquired in the first place.

But the companies have responded to the challenge of coming up with new reclamation techniques and have developed technology which our technical people in the Forest Service and in the Department of the Interior believe can assure the reclamation that we believe it requires under the law. The technique, and I am no expert on this subject, but the technique essentially, as I understand it, is that by mixing sand and clay with the slurry which results from the mining process at the appropriate times and the timing is critical, that the traditional slime pond problem is avoided. Instead of perpetuating these slime ponds which last from 20 to 30 years in a colloidal mixture of water and clay in suspension, solid material can be developed and the water come to the surface in clear form and then can be drawn off so that the solid land is then reestablished in a form that can support plant growth and which we have ever reason to anticipate can support tree growth.

As I said the whole technology is so new that we do not have the absolute proof of bringing trees to 20 to 30 to 50 years of age.

Senator WALLOP. You would have to have, would you not, something that would at least arguably and scientifically arguably to make you believe that that could take place before you would permit it though. Would you not?

Mr. CROWELL. You would and we believe that the evidence from the new technology is very strongly in that direction. I might add, Mr. Chairman——

Senator WALLOP. I am a little at a loss to reconcile your two statements. If I heard you right in the first statement, which triggered my question, was that we don't know that it will sustain tree growth 40 or 50 years.

Mr. CROWELL. That is true. We do not know, because the technology is so new. It is only 4 or 5 years old or less than that and we have not been able to grow trees for a longer period than that.

Senator WALLOP. But the evidence is very strongly only in favor of 10 percent of the timeframe. I would be loathe myself, and you confess not to be either, but I would be loathe to extrapolate from 5 years of experience a half century of experience.

Mr. CROWELL. We would, too, except that the character of the soil which is developed as a result of this reclamation technology is comparable to other soil which does support growth to maturity.

Senator WALLOP. That is only half of the reasons for which the original reservation was made. The other half is assuring water supply.

Mr. CROWELL. Water flow.

Senator WALLOP. If you can tell me how that is done, I will promise you that the State of Wyoming will pay you vast sums of money to come and tell us how you can assure that. I don't mean to joke on the thing. It is no joking matter, but seriously is there any conceivable way in which you can assure the integrity of underground water?

Mr. CROWELL. Well, of course, Wyoming's problem is considerably different than Florida's. You don't have the water to begin with and Florida has a lot of it. The problem in Florida is to assume that the water is made available is unpolluted form, unaffected by the results of mining. We believe that the stipulations which the Forest Service has developed for appending to the leases would assure that water flows would be in approximately the same quantity that would originate from the land before it was mined and would be of good quality.

Now, I meant to say earlier that the stipulations as proposed by the Forest Service are result oriented. If the result is not achieved the mining must stop. It cannot go forward.

Senator WALLOP. How can you tell that that is the problem? How can you tell the results are not being achieved until it is rather late in the day?

Mr. CROWELL. This mining activity would take place over anywhere from 20 to 30 years or longer depending on the market and you can with the experience from the first few years——

Senator WALLOP. That is the very problem though, is it not? That is the one that concerns me the most. The balance can take place over 10 or 20 or 30 years. What happens 10 years into it when you say mining must cease? What has happened in that 10 years? You have done a third of the total value that is available to you to do and I don't mean to phrase it like that. And that is presumably irreversible or extraordinarily expensive to reverse.

Mr. CROWELL. I think it would show up a lot sooner than 10 or 20 years that you were not achieving the kind of reclamation that you were expecting. Because, for instance, if you were to apply the reclamation and then it turns out that the trees in fact do not grow to be more than 15 feet high or something of that sort, at the end of 10 years, then you would say that the technology is inadequate and you would stop the mining from there on.

Senator WALLOP. That is my point.

Mr. CROWELL. The dilemma that we are confronted with here, Senator, is that the administration is faced with applying some existing law. We have the law, under the Weeks law, we have the 1920 Mineral Leasing Act and the 1947 Mineral Leasing Act, which applies to the Weeks law acquired land, and we need to go forward based on administering the law as it is now written.

Senator WALLOP. But there is also this set of laws, which you have identified quite rightly, and that you cannot do anything to contravene the basic purposes for the original withdrawal that should be the controlling law over all of the other things.

Mr. CROWELL. It is and that is why we say that we held up this process until the development of this new technology, which we now feel, gives us very strong evidence that reclamation can be satisfactorily carried out under the standards of the three statutes I am talking about.

Senator WALLOP. All right. Then is there no area of the U.S. coast which makes a judgment on the market? Testimony to date to this committee has been that we are actually stockpiling phosphate, that is mined from privately owned lands primarily. What is there that makes it in the national interest to add to that stockpile by mining in place with admittedly new reclamation technology? What is the hurry that is there when a surplus is being created and is this Government in the business of competing with privately held mineral resources especially in the face of the market glut?

Mr. CROWELL. I think the answer to that is that these leases will be held by private companies who will be selling the product into a world market and if it is uneconomic to process this particular lease site, it will not be done, but the indications are that it probably will be economical.

Senator WALLOP. I think I am having a hard time understanding why the Government is in competition with private industry in a saturated market when, especially, we are looking at techniques and technology which admittedly are new and it could be so much more clearly demonstrated that their effectiveness or lack of it with a few more years of work.

Mr. CROWELL. Well, if it were only up to the United States, if the United States were developing these facilities and it was clearly within the timing of the U.S. Government to select when the facilities or the deposits would be developed, I don't think we would have a problem. I think I would be appearing here before you today saying that we agree that the development of these particular deposits could very well be deferred because it would not be to any particular cost to anyone other than the State of Florida, whose Governor today has indicated they are quite willing to forgo the benefits of present development.

But that is not the case, Senator, because the mineral laws which we are charged with enforcing call for us to follow out certain procedures. Those procedures have been triggered, they have been underway, and we have an obligation to proceed, to carry out those procedures.

What the companies who obtain the leases may do in terms of timing and development, of course, would be largely a function of their view of the economics of the marketplace.

Senator **WALLOP**. Well, I think that is in a way all the subcommittee needs is what we would be doing if it were different, because it is within the Congress to make that judgment.

Let me ask you this, does the State of Florida reclamation law obtain on Federal lands so long as it is equal to or superior to the Federal law?

Mr. **CROWELL**. The State of Florida has just adopted an amendment to their statute, which deals with regulation of mining activities affecting phosphate mining on private lands, and it pretty clearly is intended to apply to Osceola National Forest. That law has been in force for 2 weeks and we simply have not had a chance to have our attorneys and the Justice Department evaluate what the consequences of application of that law might be.

I am just not prepared to give you an estimate of that at this point, Mr. Chairman.

Senator **WALLOP**. If you can determine that, we would appreciate it if you would have a statement for the record along with some other questions that we have. One incident to me, that is if we do get to the point of exchanges and other things, what impediments do you see and do you have any means to suggest to the committee to relieve those or of providing equity, as you pointed out, in the States of say Montana, Wyoming, or Idaho with phosphate or coal leases? How would you get to that point of providing impeding equities?

Mr. **CROWELL**. The impediments we see to making these exchanges actually work are that primarily they have to be voluntarily accepted by the other parties, the companies who were entitled to the leases. So one has to make a determination first of the quantity of the phosphate which would be subject to their leases, the determination of its quality and of its subsequent value, not easy questions when you are talking about material that is in the ground and covered with an overburden so that you cannot go out and see it.

There would be extensive drilling required to evaluate that. Then you would have to make the same kind of evaluation for whatever areas you are proposing be exchanged. And these are both time consuming and obviously fraught with all kinds of potential for disagreement.

Ultimately, the question would have to be decided if there were direction from the Congress for the Federal Government to acquire the phosphate lease rights in Florida and that would be a question for the courts based on the best available evidence presented by the parties. And so we would anticipate that the exchange provision probably would be less than likely to work and we would eventually end up in some sort of a condemnation proceeding which could be extremely time consuming and very expensive and could end up possibly causing the Federal Government to pay very substantial damages in compensation.

In response to the second part of your question, Mr. Chairman, we don't have any bright ideas about how this problem might be resolved at this point. We certainly are willing to work with you and with the State of Florida and with the companies on trying to develop some sort of a satisfactory resolution of this matter, but at present we don't have any brilliant suggestions, I regret to say.

Senator **WALLOP**. I wonder if you would provide for the committee a suggestion as to how we would define fair market value in there. You need not respond now, because it would be a response that would have to be refined anyway. But it does seem to me that would have to be one of the issues that would have to be determined as to how you define fair market values. I would assume that the cost of extraction and other things would have to be removed from reasonable cost of extraction.

Mr. **CROWELL**. Yes, we would be talking about a residual value when we are talking about trying to value something that is in place in the ground.

Senator **WALLOP**. I would appreciate it. The other thing is I wonder if there is any reason to proceed with haste while this matter is under consideration by the Congress?

Mr. **CROWELL**. No, there really is not.

Senator **WALLOP**. It would be my hope that that might be a decision that would be reached within the administration, and given time. There is no reason, in other words, I guess what I am saying to add to the cost of the Government for effecting the implementation if such a piece of legislation were to pass.

I think there would be prudence to just simply indicate watching the progress of this legislation.

Mr. **CROWELL**. I concur with that and I don't think the administration will have any problem agreeing that any issuance of the leases could be held up for the rest of this Congress, so as to give your committee and the full committee and the Senate a chance to try to develop something here. In fact, as I say, we will be glad to try to participate constructively in that process.

Senator **WALLOP**. I would appreciate it very much and I certainly appreciate your testimony here this morning. Thank you.

Mr. **CROWELL**. Thank you, Mr. Chairman.

Senator **WALLOP**. We will take a 10-minute recess.

[Whereupon, there was a short recess taken.]

[Subsequent to the hearing the following letters were submitted for the record:]

JAMES A. MC CLURE, IDAHO, CHAIRMAN
MARK O. HATFIELD, OREG.
LOWELL P. WEICKER, JR., CONN.
PETE V. DOMENICI, N. MEX.
MALCOLM WALLOP, WYO.
JOHN W. WARNER, VA.
GORDON J. HUMPHREY, N.H.
FRANK H. MURKOWSKI, ALASKA
DON NICKLES, OKLA.
JOHN P. EAST, N.C.
JOHN HEINZ, PA.
HENRY M. JACKSON, WASH.
J. BENNETT JOHNSTON, LA.
DALE BUMPERS, ARK.
WENDELL H. FORD, KY.
HOWARD M. METZENBAUM, OHIO
SPARK M. MATSUNAGA, HAWAII
JOHN MELCHER, MONT.
PAUL E. TSONGAS, MASS.
BILL BRADLEY, N.J.
MICHAEL D. HATHAWAY, STAFF DIRECTOR
CHARLES A. TRABANDT, CHIEF COUNSEL
D. MICHAEL HARVEY, CHIEF COUNSEL FOR THE MINORITY

United States Senate
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, D.C. 20510

May 12, 1982

The Honorable Lawton Chiles
437 Russell SOB
Washington, D. C. 20510

Dear Lawton:

During the Public Lands and Reserved Water Subcommittee's April 1, 1982 hearing on pending legislation affecting possible phosphate leases in the Osceola National Forest, Assistant Secretary Crowell, who was representing the Administration, orally stated that the Administration would be willing to defer issuing any of the pending preference right leases until the end of the current session of Congress.

The Public Lands and Reserved Water Subcommittee has received a letter from the Department of the Interior confirming their concurrence with Mr. Crowell's assurance given at the hearing. A copy of this letter is enclosed for your own referral, and will be included in the hearing record.

Sincerely,

Malcolm Wallop

Malcolm Wallop
Chairman
Public Lands and Reserved
Water Subcommittee

TB:skw

United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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MAY 3 1982

Honorable Malcolm Wallop
Chairman, Subcommittee on Public
  Lands and Reserved Water
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

During your Subcommittee's April 1, 1982, hearing on pending legislation affecting possible phosphate leases in the Osceola National Forest, Assistant Secretary Crowell, who was representing the Administration, orally stated that the Administration would be willing to defer issuing any of the pending preference right leases until the end of the current session of Congress.

This letter will confirm our concurrence with Mr. Crowell's assurance given at the hearing. In order to provide ample opportunity for the Congress to decide how the competing interests should be resolved, we will postpone final decisions about whether any of the leases should be issued until after the session adjourns. The administrative process for determining whether or not valuable deposits exist on the areas subject to the preference right lease applications will proceed in the meantime. We feel this is essential since pending legislation is also predicated on making that determination.

Both the Department of the Interior and the Department of Agriculture are prepared to assist you and your Subcommittee in seeking appropriate resolution of these issues.

Sincerely,

Assistant Secretary for
Land and Water Resources

CC: Honorable John B. Crowell, Jr.
Department of Agriculture

Senator WALLOP. The next panel consists of Dennis Olsen of Peterson, Moss & Olsen, Idaho Falls, Idaho; George Atwood, Monsanto Co., Denver, Colo.; and Elmo Hoffman of Global Exploration of Lakeland, Fla.

And if you could try to summarize your statements, it would be appreciated. They will all be included in the record in their entirety.

STATEMENT OF DENNIS OLSEN, PETERSON, MOSS & OLSEN, IDAHO FALLS, IDAHO, ACCOMPANIED BY GEORGE ATWOOD, MONSANTO CO., DENVER, COLO.

Mr. OLSEN. Mr. Chairman, Mr. Atwood of the Monsanto Co. will make a statement.

Mr. ATWOOD. Mr. Chairman, I will summarize my statement to a large extent. We have submitted it to the committee and we would like the full statement entered into the record. My name is George Atwood and I do represent Monsanto.

To encourage the discovery and development of new ore bodies, the Federal Government may grant prospecting permits to allow exploration for minerals on federally owned land. Since most of the easily found ore bodies have been or are being mined, the search for new mineral resources is presently extremely risky with many such efforts being futile and resulting in a total lose of venture capital.

In order to nevertheless entice companies to risk this capital, the law provides that the prospector who finds a valuable deposit of phosphate is entitled to what is commonly referred to as a preference right lease. Such a lease is issued subject to the usual royalties and rentals but without the submission of bonus bids, due to the risks that we have incurred.

In 1965 and 1966, Monsanto, relying upon this legislation, obtained 16 prospecting permits to explore for phosphate on the Osceola National Forest. The exploration revealed a very substantial phosphate ore body. Between 1968 and 1972 we applied for preference right leases.

Meanwhile, other companies also acquired prospecting permits and sought leases in the same fashion. The USGS, the U.S. Geological Survey, commenced processing the applications and certified that a valuable deposit had been found on the lands included in a number of the lease applications.

The events of the next 12 years relative to the issuance of the leases statutorily guaranteed to the finder of a valuable deposit are a classic example of the frustration of congressional intent by delay and harassment. Having succumbed to the enticement offered to search for the mineral and having in fact found and made known the existence of a very substantial new ore body, the permittees have been frustrated by the efforts to avoid the issuance of the leases after they have performed their part of the bargain.

In 1976 new regulations were adopted by the Department of the Interior, establishing new criteria, after the fact, for determining whether a valuable deposit had been discovered. These regulations require the applicants to go through a useless, time-consuming, and expensive process of preparing mining plans and determining economic factors before the leases are granted, years before the mining occurs. Most of this data would be obsolete when the time for mining arrives.

In 1978, H.R. 9 was introduced by Congressman Fuqua. This bill, as adopted by the House, also prohibits the mining of phosphate on the Osceola. The permittee is allowed to recoup the value of its mineral rights through exchanges of least rights or through monetary credits or bidding rights, bonus, rental, or royalty payments or other Federal mineral leases.

At its option only, the Government may also purchase the rights outright. If the parties cannot agree as to the relative values or lands to be exchanged, the issue is to be arbitrated under the auspices of the American Arbitration Association. In this manner, the Interior Department can ultimately be saved from many of the difficulties encountered in connection with other land exchanges.

Meanwhile, the administration, after almost a 13-year delay, proceeded with its effort and obligation to bring to a conclusion the matter of the issuance of preference right leases.

After the passage of H.R. 9 in the House, the State of Florida again interjected itself into the matter by adopting regulations and legislation which State officials have publicly admitted were designed to frustrate any action by the Federal Government to issue leases and ultimately develop the Federal resource.

While Monsanto believes that the State cannot legally impose such restrictions on Federal activity on Federal lands involving a Federal resource, the State action does raise the specter of further costly and time consuming litigation for all the parties, including the Federal Government, if the legislation is adopted.

This issue should be addressed with a view to avoiding this hiatus if the legislation is approved. We would be pleased to work with the committee to develop such language to help resolve this problem.

Monsanto does not oppose H.R. 9 if it is concluded that such legislation is the desired solution to this matter. However, Monsanto has consistently believed that it could mine the Osceola in a fashion that would be environmentally acceptable. And as pointed out in Monsanto's testimony given at the House hearing on H.R. 9, there are substantial actual data to support the conclusion that the properties can be mined in a manner that adequately restores the environment to the conditions desired by the surface management agency.

A summary of these points is attached hereto as appendix A.

In conclusion, Monsanto asserts that it is by law entitled to the leases. The leases can be profitably mined in an environmentally acceptable manner. However, if it is the will of Congress that these properties not be mined, then Monsanto should be fairly compensated for the taking of the mineral interests that it obtained based upon the laws in effect at the time it undertook this effort.

In this context Monsanto believes that the adoption of H.R. 9 could result in an equitable resolution of this long standing issue and therefore would not oppose its passage.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Atwood follows:]

STATEMENT OF
MONSANTO COMPANY

Presented at the Hearing on H.R. 9 et al.
before the
Subcommittee on Public Lands and Reserved Waters
of the
Senate Committee on Energy and Natural Resources

April 1, 1982

Statement given by

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STATEMENT OF
MONSANTO COMPANY

Presented at the Hearing on H.R. 9 et al.
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Subcommittee on Public Lands and Reserved Waters
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Senate Committee on Energy and Natural Resources

April 1, 1982

To encourage the discovery and development of new ore bodies, the federal government may grant prospecting permits to allow exploration for minerals on federally owned land.

Since most of the easily found ore bodies have been or are being mined, the search for new mineral resources is presently extremely risky with many such efforts being futile and resulting in a total loss of venture capital. In order to nevertheless entice companies to risk this capital, the law provides that the prospector who finds a valuable deposit of phosphate is entitled to what is commonly referred to as a "preference right" lease (30 U.S.C. Section 211 (b)). Such a lease is issued subject to the usual royalties and rentals but without the submission of bonus bids.

In 1965 and 1966, Monsanto, relying upon this legislation obtained 16 prospecting permits to explore for phosphate on the Osceola National Forest. The exploration revealed a substantial phosphate ore body. Between 1968 and 1972 preference right leases were applied for.

Meanwhile, other companies also acquired prospecting permits and sought leases. The U.S.G.S. commenced processing the applications and certified that a valuable deposit had been found on the lands included in a number of the lease applications.

The events of the next twelve years relative to the issuance of the leases statutorily guaranteed to the finder of a valuable deposit are a classic example of the frustration of Congressional intent by delay and harassment. Having succumbed to the enticement offered to search for the mineral and having in fact found and made known the existence of a substantial new ore body, the permittees have been frustrated by the efforts to avoid the issuance of the leases after they performed their part of the bargain.

A moratorium was declared halting all further administrative action pending environmental studies. Consequently the certifications of valuable deposits on numerous parcels were not completed despite the fact that the mineral deposit was the same on the certified areas.

Meanwhile, a furor arose over the possibility of mining occurring in the Forest. Much erroneous and totally false information was publicized to create an emotional outburst opposing mining on the Forest. The issue became highly politicized. Numerous studies performed one after the other were conducted. None of these studies refuted the fact that a substantial valuable ore deposit had been discovered.

In 1976, regulations were adopted by the Department of the Interior, establishing new criteria for determining whether a valuable deposit had been discovered. These regulations require the applicants to go through a useless, time-consuming and expensive process of preparing mining plans and determing economic factors before the leases are granted -- years before mining occurs. Most of this data would be obsolete when the time for mining arrives.

In 1980, with the backing of the Secretary of the Interior, and the acquiescence of most of the companies applying for leases, legislation was introduced by Representative Fuqua of Florida which prohibited mining on the Osceola National Forest and provided that the preference right lease applicants who had discovered a valuable deposit could exchange these rights for federal leases having equal value on the federal lands. This legislation passed the House but died in the Senate.

In 1981, H.R. 9 was introduced by Congressman Fuqua. This bill, as adopted by the House, also prohibits mining of phospahte on the Osceola. The permittee is allowed to recoup the value of its mineral rights through exchanges of lease rights or through monetary credits on bidding rights, bonus, rental or royalty payments on other federal mineral leases. At its option only, the government may also purchase the rights outright. If the parties cannot agree as to relative values or lands to be exchanged, the issue is to be arbitrated under the auspices of the American Arbitration Association. In this manner, the

Interior Department can ultimately be saved from many of the difficulties encountered in connection with other land exchange efforts.

Meanwhile the Administration, after almost a thirteen year delay, proceeded with its effort and obligation to bring to a conclusion the matter of the issuance of preference right leases.

After the passage of H.R. 9, the State of Florida again interjected itself into the matter by adopting regulations and legislation which state officials have publicly admitted were designed to frustrate any action by the federal government to issue leases and ultimately develop the federal resource. While Monsanto believes that the state cannot legally impose such restrictions on federal activity on federal lands involving a federal resource, the state action raises the specter of further, costly and time consuming litigation for all the parties including the federal government if the legislation is adopted. This issue should be addressed with a view to avoiding this hiatus if the legislation is approved. We would be pleased to work with the Committee to develop language to resolve this problem.

Monsanto does not oppose H.R. 9 if it is concluded that such legislation is the desired solution to this matter. However, Monsanto has consistently believed that it could mine the Osceola in a manner that would be environmentally acceptable. As pointed out in Monsanto's testimony given at the House Hearing on H.R. 9, there are substantial factual data to support the conclusion that the properties can be mined in a manner that adequately restores the environment to the conditions desired by the surface management agency. A summary of those points is attached hereto as Appendix A.

In conclusion, Monsanto asserts that it is by law entitled to the leases. The leases can be profitably mined in an environmentally acceptable manner. However, if it is the will of Congress that these properties not be mined, then Monsanto should be fairly compensated for the taking of the mineral interests that it obtained based upon the laws in effect at the time it undertook this effort. In this context Monsanto believes that the adoption of H.R. 9 could result in an equitable resolution of this long standing issue and, therefore, would not oppose its passage.

RESPECTFULLY SUBMITTED,

By
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and

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APPENDIX
to
STATEMENT OF MONSANTO COMPANY
Presented at the Hearing on H. R. 9 et al
before the
Subcommittee on Public Lands and Reserved Waters
of the
Senate Committee on Energy and Natural Resources

April 1, 1982

Numerous individuals and organizations have asserted that phosphate mining on the Osceola could not be conducted in an environmentally sound manner. These contentions are inaccurate and ignore reclamation techniques developed over the past several years. Apparently the conclusions are based upon operations conducted many years ago on private lands.

In an effort to bring the matter into prospective, Monsanto submits the following:

1. After leases are issued, mining and reclamation plans specifying reclamation requirements must be submitted to and approved by the federal government before any mining may occur.

2. Of the 157,231 acres in the Osceola National Forest, the preference right lease applications cover 52,000 acres or 34% of the Forest. However, the area to be mined consists of only 23,000 acres or 14.6% of the Forest of which only approximately 750 acres or .4% of the Forest would be mined annually.

APPENDIX

-2-

3. Under Monsanto's plans for mining the Osceola, there would be no chemical manufacturing plant in the area. The top foot of soil would be saved for reclamation purposes and restored to the surface, thus preserving most of the natural ecosystems presently on the Forest. Additives would be introduced into the soil to improve the plant growing potential. Mining disturbance would be carried on over 30 years with reclamation activities commencing immediately following the conclusion of the mining operation in a given area. There would be no clay settling ponds left after the operations were concluded. As the thirty year mining cycle ended, the initially disturbed land could have twenty-seven years of vegetative growth.

4. By mixing the sand and clay components of the mining operation, firm, consolidated, fertile soil can be established that will eliminate the clay (slime) settling ponds that were common in earlier operations. Thus revegetation including trees and other plants would quickly commence. The topography could be easily and inexpensively tailored to produce habitat suitable for swamp species or dry land species by simply adjusting the elevation above or below the water table.

Senator Wallop. Thank you very much. Mr. Olsen.

Mr. Olsen. I am here to respond to any questions. We thought that you would want to hear from Mr. Hoffman and then we could respond to questions as a panel.

STATEMENT OF ELMO R. HOFFMAN, GLOBAL EXPLORATION & DEVELOPMENT CO., LAKELAND, FLA.

Mr. Hoffman. Thank you, Mr. Chairman. My name is Elmo Hoffman. I am an attorney practicing in Orlando, Fla., with the firm of Cramer, Hoffman & Haber. We also have an office up here with Bill Cramer. I have lived in Florida all of my adult life of 25 years.

I represent Global Exploration, which is the small company among the four here. It only has one employee and one stockholder and that is a mining engineer named George Brooks. I would like to respond just briefly to a couple of points that have already been raised this morning.

One, the Chair asked the last person here about his reasons for haste. In fact, there are two reasons for haste, two reasons for haste in the administration, and no reason to delay. The two reasons for haste is, one, we have been writing 13 years and fairness would suggest some haste in Interior and Agriculture at this time.

The other reason is that my company has litigation pending with the Secretary of the Interior and I have three times signed an extension with the Justice Department abating that action pending action by resolution either in the administration or in the Congress.

The Justice Department attorney and I have signed an extension through June 1962 for that action to be abated and if it is not, if something does not get resolved, either administratively by issuance of leases or by some action of Congress, we have to revive that action.

Senator Wallop. Is that 1962 or 1982?

Mr. Hoffman. Did I say 1962? I am sorry, thank you, 1982. I was thinking back to when I first started wandering around the woods in Florida. I was going to tell you a little bit about that.

And on the other hand, there is no reason to delay, because all of the information is there. All of the numbers are there. The people in USGS and BLM and we all know exactly what has to be considered to resolve this one way or the other. So we urge the committee to act with some haste, because we think Interior has to continue to act with haste.

We have submitted a written statement. I would like to make a correction on page 2, for some reason there is a reference to two-thirds of the forest and on page 2 it should say one-third of the forest and I will get back to that in just a moment.

Some of the things we say in our statement and some of the things I am going to say right now differ greatly with some things you have heard from representatives, from the Governor of Florida and I suggest that maybe one reason for that is Florida does have a fragile ecology and we do need to be very concerned about it and sometimes we in Florida get a little hysterical about it.

Another reason is that the Florida Phosphate Council is in effect a potential competitor of these four companies. The Florida Phosphate Council is made up of four companies operating in Florida now and their numbers, interpretation numbers sometimes are different from ours, particularly in regard to projection of reserves.

I am glad the Governor mentioned that 100-year supply is projecting if you price phosphate much, much higher than the price today, and you can do anything with those reserve numbers, including counting losses of the low grade somewhere in North Carolina and it is very expensive to get out, but this own government's own GAO made a report in November 1979, which we believe to be very accurate, which the GOA at that time said we had 15 or 20 years reserve of this very critical mineral.

We think that is a correct figure by the GAO. And that was 5 years ago and so we are already 5 years into that. I mentioned being in Florida this period of time. During that time I have been an avid outdoorsman fisherman, hunter, camper. At this time, I get out at least once a month in the woods and I am not an armchair environmentalist. I know what is out there.

To summarize our written submission, Global Exploration, as I said, is a very small company. Mr. Brooks has put his entire life's savings and spent the last 13 years trying to develop something that this Government held out to him to encourage him to do.

By Federal statutes existing in 1969, the Government in effect held out to my client an offer to contract, to encourage him to use his talents as a mining engineer to prospect for and find a critical natural resource. He accepted that offer to contract.

Federal laws and regulations at that time charged the Department of the Interior and the Department of Agriculture with the responsibility of determining whether mining would be consistent with other multiple use of the forest and appropriate to the ecology and to make that determination prior to approving his application for prospecting.

Both of those departments supposedly made that determination back then, because they issued him a prospecting permit. Federal statutes say that once that prospecting permit was issued, the Federal Government is agreeing that if he found valuable deposits he would receive leases.

He did everything the Government asked him to do. And he did find valuable deposits.

Now, in 1973, mining engineers and geologists in the USGS by internal memo within the USGS, which I received through a deposition, certified that Mr. Brooks had a valuable discovery of phosphate. The Federal mining laws provide that upon USGS certification of a valuable deposit the Ssecretary of the Interior may not issue, but shall issue the leases.

However, the Department of the Interior delayed and promulgated new regulations in May 1976 which require additional administrative procedures prior to issuing such leases. My client is complying with those new regulations at this very moment. He has complied with every hoop the Interior has asked us to jump through and my client is applying with all applicable environmental regulations.

Many of the self-annointed environmentalists have mounted such a public relations campaign to proclaim a potential rape of this pristine forest that we have people worrying about things that are not happening. These compaigns have included assertions that four campanies were going to mine one-third of the forest, when in fact less than one-eighth of the forest contains the known deposits and less than 1 percent per year would be mined, less than 1,000 acres per year over a 20-year mining plan.

Mr. Chairman, I think that goes to the question that you asked Mr. Crowell, how do you know what is happening. We are only talking about mining 900 acres a year. As we mine we reclaim that portion while we mine the next 900 acres.

Senator **WALLOP**. Is that the total disruption of all interested parties?

Mr. **HOFFMAN**. Yes. That is all four companies.

Mr. **OLSEN**. In fact, in some of the cases it would only be 750 acres a year.

Mr. **HOFFMAN**. 750 acres is actually the more current accurate plan. The way that is done is you go in and move the overburden. You get the phosphate out; you wash it; you take the clay that you wash away from the phosphate and you mix it back to the sand palings; you simply put it back in the trough; put the overburden back on top of it and it is that simple.

We are talking about putting back the trees and so forth as we go so that you look back and see what is happening. Now, we talk about is a tree going to grow to a 20- or 30-year maturity? Human, commonsense tells us if the tree is alive after 3 or 4 years, it probably is going to grow up unless the bugs get it or something.

But the forestry men have looked at that question very carefully and we have met with them and they have agreed that 4 or 5 years is sufficient time to know, in human experience, that tree is going to live to timbering size.

Now, about this pristine forest, this forest is crisscrossed with current and old logging roads almost on every section line. Interstate 10 runs right through this forest. It is in fact a farming area for the Forestry Department. It is being farmed for timber with as much as 2,000 acres per year being clearcut and then reforested. We propose to mine in conjunction with all four companies, as I say, less than 1,000 of those acres contain phosphate per year. In correlating this with phosphate, where possible, I mean correlating this with forestry where possible, like if they clearcut, let us mine that part, where they are operating the same land and then go through the same reforestry procedures they otherwise would.

Now, this publicity campaign has included claims that chemical plants and slime ponds would ruin the forest when in fact no chemical plants are planned or were planned. Now, there is another outfit about 8 miles west of our place that does have a chemical plant, but we never proposed to do that.

The proposed reclamation techniques would not require the use of so-called slime settling ponds. And I have in my typed statement something that has already come up from the chairman this morning, and I was very interested to see that that was mentioned, that slime is in fact clay and yet it is called slime ponds and it sounds worse.

But under the old methods, they did wash the clay away and put it in the settling pond. That has been covered adequately here today. The reclamation, that I have described, is again mentioned in my written statement. I won't go back over that.

I would like the committee to look at two environmental impact statements, which have been done on this question, in 1974 and 1979, and from some of the questions that I have heard asked from the Chair, those EIS's have already been under some consideration.

Some people, the environmentalists, and I count myself as one of them, but some people seem to reach whatever conclusion they wish to in writing material which has been included in those EIS's and inserted those reports as opposition and reaching conclusions ignoring the data, the background data, which is in the back of those EIS's in the appendixes.

A good example of that is appendix I to the 1974 EIS. It is a long letter report, about 13 pages, from Mr. Greenwald to the chief of the U.S. Fish and Game Service. Mr. Greenwald summarized the studies done by his investigative teams, saying that no endangered species are threatened if the stipulations of his agency are followed.

His panther research team found no panthers; his black bear research team found no black bears; and his woodpecker team found no woodpecker nests on Global's prospecting area. Yet danger to wildlife is still being predicted by those opposed to mining.

The environmental impact statements also noted that the proposed mining plan could enhance certain recreational uses of the forest. Yet the publicity campaigns against mining have appealed to recreational users to fight the proposed mining.

Unfortunately, it appears that our company has been tarred with the sins of other miners of past years who were not environmentally concerned and who did not utilize modern techniques to prohibit damage.

How you test the water, for instance, the chemical people, the people in that technology tell us that the outflow can be constantly monitored and tested. Florida knows that. It is doing that in the Suwannee River right now, monitoring and testing the water in the outflow.

One mining engineer of some 30 or 50 years of experience with one of the other companies advised me that the outflow would be judged by parts of pollutant per gallon and it would be cleaner than the natural outflow that is already going in there.

Now, several experts in various Government agencies who worked on the two EIS's have stated to me publicly that there is no reason to suspect that we could not restore the same ecological function to the forest postmining as existed premining under our plans. Ecological function means the same type of flora and fauna would function in the restored environment.

No human activity ever leaves things in the identical condition it was in before that activity. Therefore, restoration of the same ecological function is the reasonable goal of reclamation and restoration. Man is a part of nature with the special God-given intellect which allows him to effect nature for his own betterment. To lock up a resource critical to man's food supply based on fallacious analysis at best seems extremely unwise.

However, my client, Mr. Brooks, has used up all of his financial ability to continue the struggle to secure his rights. He has been pushed around by the Federal Government for 13 years. He has lost 10 years of profitable mining. He now faces the prospect of another prolonged struggle with the State of Florida and with the Federal Government unless the U.S. Congress somehow reconciles the competing interests in this matter.

Since the passage of H.R. 9 appears to offer the only early resolution of these problems, Global does not oppose the legislation if it includes just compensation for the taking of Global's rights, so that we do not have prolonged and costly litigation with both governments. Perhaps the governments are willing to afford such activity but this citizen cannot.

Thank you.

[The prepared statement of Mr. Hoffman follows:]

STATEMENT OF
GLOBAL EXPLORATION AND DEVELOPMENT COMPANY

Presented at the Hearing on H.R. 9 et al.

before the

Subcommittee on Public Lands and Reserved Waters

of the

Senate Committee on Energy and Natural Resources

April 1, 1982

Statement given by

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Attorney for Global Exploration
and Development Company

STATEMENT BY REPRESENTATIVE
OF
GLOBAL EXPLORATION AND DEVELOPMENT COMPANY

Global Exploration is a very small company to carry such a large name. It was incorporated in the late 1960's by a lone mining engineer, George Brooks, for the sole purpose of prospecting for phosphate in the vicinity of the Osceola National Forest in Florida. Mr. Brooks is Global's only employee and shareholder.

By Federal statutes existing in 1969, the U.S. Government in effect held out to my client an offer to contract, to encourage him to use his talents as a mining engineer to prospect for and find a critical natural resource. He accepted that offer to contract. Federal laws and regulations charged the Department of Interior and the Department of Agriculture with the responsibility of determining whether mining would be consistent with other multiple use of the Forest, and appropriate to the ecology, prior to approving applications for prospecting. Both of those departments agreed that the Osceola was appropriate for mining when they approved my client's prospecting permit and, pursuant to Federal Statute, agreed that he would receive leases to mine if he found valuable deposits of phosphate. He did just what the government encouraged him to do. (He has used all of his life's savings and thirteen of the years which should have been the most productive of his life, from age 45 to 58 in this effort.)

In 1973, mining engineers and geologists in the U.S.G.S., by internal memo within the U.S.G.S., certified that Mr. Brooks had a valuable discovery of phosphate. Federal mining laws provide that upon U.S.G.S. certification of a valuable deposit the Secretary of the Interior "shall issue" leases to the prospecting permittee, however, the Department of Interior delayed action and promulgated new regulations in May 1976 which require additional administrative procedures prior to issuing such leases. (My client is complying with those new regulations and all applicable environmental regulations.)

Self-annointed environmentalists have since mounted hysterical public relations campaigns to proclaim a potential rape of the "pristine" forest. These campaigns have included assertions that four companies were going to mine ~~two~~ one third~~s~~ of the forest, when in fact less than one eighth of the forest contains the known deposits and less than one percent per year over 20 years would be mined under the proposed mining plan.

The "pristine" forest is crisscrossed by current and old logging roads and Interstate 10 runs right through it. It is, in fact, being farmed for timber by the U.S. Forestry Service with as much as 2000 acres per year being clear cut and reforested. We proposed to mine, in conjunction with all four companies, less than a thousand acres per year of the approximate 18,000 acres containing the phosphate, correlating this with Forestry's cutting, where possible and restoring each years mining area as we mine the next.

The propaganda campaign has included claims that chemical plants and slime ponds would ruin the forest, when, in fact, no chemical plants are planned. The proposed reclamation techniques would not require the use of so-called slime settling ponds. (Slime is, in fact, clay, and under old methods was washed away from the phosphate and drained into settling ponds.) The reclamation plan proposes mixing the clays with sand tailings and replacing such mix in the mined areas and covering that with the original top soil. Trees grow better on the mined areas after mining due to the residue of phosphate stirred up by such mining and reclamation.

Two Environmental Impact Statements (EIS) have been done on this question, in 1974 and 1979. The "environmentalists" seem to reach whatever conclusion they wish in writing material which has been inserted into those reports ignoring the actual background data which is included in those studies. For instance, such data includes, as Appendix I to the 1974 EIS, a long letter report from Mr. Greenwald, Chief of the U.S. Fish and Game Service. Mr. Greenwald summarized the studies done by his investigative teams, saying that no endangered species are threatened if the stipulations of his agency are followed. His panther research team found no panthers; his black bear team found no black bears;

and his woodpecker team found no woodpecker nests on Global's propsect area. Yet danger to wildlife is still predicted by those opposed to mining.

The Environmental Impact Statements also noted that the proposed mining plan could enhance recreational uses of the forest. Yet the publicity campaigns against mining have appealed to recreational users to fight the proposed mining.

Unfortunately our company has apparently been tarred with the sins of other miners of past years who were not environmentally concerned, and who did not utilize modern techniques to prohibit damage.

Several experts in various government agencies who worked on the two EIS's have stated to me publically that there is no reason to suspect that we could not restore the same ecological function to the forest postmining as existed premining under our plans. Ecological function means the same type flora and fauna would function in the restored environment. No human activity ever leaves things in the identical condition it was prior to that activity. Therefore, restoration of the same ecological function is the reasonable goal of restoration and reclamation. Man is a part of nature with the special Godgiven intellect which allows him to affect nature for his own betterment. To lock up a resource critical to man's food supply based on fallacious analysis at best seems most unwise.

However, my client, Mr. Brooks, has used up all of his financial ability to continue the struggle to secure his rights. He has been pushed around by the Federal government for 13 years and has lost 10 years of profitable mining. He now faces the prospect of further prolonged struggle with the State of Florida and the Federal government unless the U.S. Congress somehow reconciles the competing interests in this matter. Since the passage of H.R. 9 appears to offer the only early resolution of these problems, Global does not oppose the legislation if it includes just compensation for the taking of Global's rights, so that we do not have prolonged and costly litigation with both governments. Perhaps the governments are willing to afford such activity but this one citizen cannot.

Elmo R. Hoffman

Senator **Wallop**. Thank you very much, Mr. Hoffman. Does anybody in the panel of men know the answer to whose judgment prevails when the valuable deposit is discovered and claimed?

Mr. **Olsen**. Mr. Chairman, I might address that. First of all, with respect to what we mean by valuable deposit. I am sure you may be familiar with the *Coleman* decision and the ideas of what a valuable discovery is. With respect to phosphate and minerals on the Federal lands, we have to realize that we don't have the same problems that they are facing in the *Coleman* decision, where they were trying to prevent people from getting patents on mineral claims so that they could build cabins on them and have the surface and have the mineral.

The Federal leasing on public lands is simply a matter of the Government continuing to control the surface and the mining company having really little right to it until it is mined. Meanwhile, the Government gets all of the royalties. I think it could well be argued that if a company is willing to pay the Government the royalties, the rental and whatever for the deposit after it has been found, it is certainly valuable to the Government.

And if the company is willing to pay the royalties it must be valuable to the company. As long as there is no mining on it, the Government is in essence getting a windfall. And then there is no mining to occur until the Government has approved the process whereby the mining takes place. So the environmental interests are protected.

So I think really the matter of value is quite easily determined by simply finding out if people are willing to pay for it and if the Government is going to get the revenue from it.

Senator **Wallop**. In this instance there is no competitive bid or there is no value established other than somebody comes and says I have a valuable deposit. Is that correct?

Mr. **Olsen**. There is more to that. You do have to establish that the mineral is there and that it is reasonably prudent to try to develop it.

Senator **Wallop**. Whose judgment prevails then?

Mr. **Olsen**. Ultimately that decision is made by the Government, of course.

Senator **Wallop**. Is there any proof of value of the claim required? I don't know. I am not trying to get anywhere weird. I just don't know who makes that judgment.

Mr. **Hoffman**. I would like to respond to that. The USGS and the BLM have certain designated employees who work in tandem to make that determination. The USGS through its mining engineers and geologists make the determination of how much tonnage is there and then transfer that information back to BLM. There is input from Forestry. There is input from other agencies of the Interior and then the ultimate resolution comes out of BLM.

Mr. **Olsen**. Mr. Chairman, I noted in your opening remarks some concern about the effect of the legislation on loss of royalties to the various States that would be collecting those royalties. We recognize that problem and feel that that could be resolved by, particularly with respect to the credit aspect, by simply giving the credit as to the Federal share of the royalties and letting the other royalty or the State share continue to flow to the State, thus avoiding any diminishing of the royalties to the State.

And we would be glad to work with the committee to draft a proposal to resolve that problem. But we think it could be handled quite easily in that fashion.

Senator WALLOP. I appreciate that. Earlier on Senator Hawkins asked the subcommittee to submit for the record the amount of money spent by your companies on the tons. Now, I recognize that that is a proprietary piece of information and so I would just ask if there might be willingness to provide that documentation to the subcommittee.

Mr. OLSEN. Mr. Atwood would probably want to respond to that as to Monsanto. But I think there is a factor there that is being overlooked. In submitting that data, should we also submit the data for all of the undertakings that we performed where we did not get anything?

You see the whole objective of the prospecting operation is to encourage companies to go out and try to find the mineral. And for everybody we find, we spend a lot of money for those where we find nothing. So if you are going to take that into consideration when it comes to compensation we think you are overlooking a very significent factor.

Senator WALLOP. Presumably, I am not talking about anywhere in America. I am talking about within the Osceola.

Mr. OLSEN. I understand what you are asking for, but I think in a sense it is not a fair or a pertinent consideration when we start determining what value should be the basis for compensation. I will let Mr. Atwood respond as far as Monsanto is concerned on whether that data is available.

Mr. ATWOOD. Well, first of all, this stuff, all the work, the application and everything else was done many, many years ago and our files, I am not sure how complete they are in that area.

Second, it was part of a very much larger exploration program in northern Florida and the portion that is in this specific lease application area may or may not be able to be broken out. I just cannot answer directly whether it is specific at this point.

I would point out that in H.R. 9 the proposed approach to value is that of replacement cost. Now, here we have in our case clearly established according to the USGS verified numbers 31 million tons of phosphate. That phosphate is something we intend to use in our already established elemental phosphate operations as a feed for that plant.

Now, if we are not allowed to utilize the 31 million tons in that deposit, then what we want is 31 million tons somewhere else. Now, to get that we are going to have to go out and purchase it. And it will be an arm's length purchase type situation and that is where the valuation aspect comes from.

There are arm's length purchases being made daily and in the last several years that would establish a basis for that.

Senator WALLOP. Whose claim is it that 31 million tons exist?

Mr. ATWOOD. That is a USGS verified number for Monsanto's lease application and that is based on the drilling submitted to them some 14 or 13 years ago, I guess it was. They have gone back hole-by-hole, evaluated that data and come up in our case with 31 million tons in our leased areas.

Now, I don't know what the others have. By the way the grade, the chemical analysis and that tonnage is very well established by that process and that was, of course, totally independent of our calculation.

Senator **Wallop**. Well, it may be, I don't know, I cannot tell where the committee is going to go, the subcommittee I cannot tell where it is going to go either. I will have to abide by the decision of the committee members, but it may be that at some time we would ask for whatever documentation can be made available as to exploratory costs, litigation and other things that are part of the exploration.

Mr. **Olsen**. One comment that was made was the question as to whether there should be further delay in resolving this, even perhaps waiting until the end of this Congress. I would simply submit, Mr. Chairman, that this is getting to a point of criticality not only for Mr. Brooks, but for all of the applicants. And we just cannot see how we can justify any further delay. It is 13 years.

Senator **Wallop**. Let me suggest here again that prudence and patience might be the better course in something like that. What you might get in pushing that sort of confrontation is a piece of very reactionary legislation that would result in real takings and real litigation and real problems. Because if there is a sense that this was in any way proceeding quickly, you have seen the Congress operate that way before, and they simply come out and start making laws.

The hearing process is suspended and the whole thing accelerates. So there are two sides to this and I don't see any point in making threats to each other as to what would happen if the prudent process is underway. My guess is it is in nobody's benefit to accelerate either side of that.

Mr. **Olsen**. We are not making any threats, we are pleading for some resolution.

Senator **Wallop**. I understand that. I guess what I am trying to suggest is the fastest resolution, that everybody work from the same side of the car, not somebody pushing from the front and somebody pushing from the back.

Mr. **Olsen**. We would be willing to work with the committee and all interested parties to work toward resolution, once we know what the anticipated resolution will be.

Senator **Wallop**. I am much obliged for your testimony. There are some questions that arise out of this and I ask you to respond for the record.

I have a statement of Donald Wilson who is counsel for Midway Coal Mining Co. that I ask be added at this time.

The committee will take a 5-minute recess right now. We will resume at 22 minutes after the hour.

[Whereupon, there was a short recess.]

[The prepared statement of Mr. Wilson follows:]

April 1, 1982

Statement Of
Donald E. Willson
Counsel For
The Pittsburg & Midway Coal Mining Co.
Before The
Subcommittee On Public Lands And Reserved Water
Of The
Senate Energy Committee

The Pittsburg & Midway Coal Mining Co. (P&M), a wholly owned subsidiary of Gulf Oil Corporation, is the holder of fifteen preference right lease applications for phosphate in the Osceola National Forest. P&M supports Section 4 of the House passed bill, H.R. 9, as an equitable resolution of a controversy pending for an exhaustive 13 years.

In 1969, the USGS certified that P&M had found valuable deposits of phosphate on all 15 of its preference right lease applications. P&M has been waiting since then for the Department of Interior to issue the leases to which it is legally entitled. The Department of Interior and the Forest Service of the Department of Agriculture are now in the final stages of the administrative process for the issuance of these leases. However, P&M does not believe that the issuance of these leases will solve all of the problems associated with them because the State of Florida, its entire Congressional delegation and several local environmental groups are strongly opposed to mining in the Osceola National Forest. In fact, recent legislative and administrative actions taken by the State of Florida demonstrate the high degree of opposition to mining in the Osceola National Forest.

Therefore, P&M believes that H.R. 9 properly and fairly balances the interest of the companies in the phosphate leases with the interests of the State. Such legislation would compensate P&M for the long delays in the issuance of these leases and resolve the local problems concerning mining in the Forest.

Senator **Wallop**. The subcommittee will reconvene. The next panel consists of Fletcher Shives, Southwest regional representative, the Wilderness Society, Atlanta, Ga.; Peter R. Mott, director, Florida Audubon Society, Maitland, Fla.; Doug Alderson, legislative chairman, Florida Sierra Club, Tallahassee, Fla.; and Stephen Roady, member, Suwannee River Coalition, Gainesville, Fla.

Gentlemen, if you will do us the favor of summarizing your statements, as others have. All will be included in the record in their entirety.

STATEMENT OF FLETCHER G. SHIVES, SOUTHEAST REGIONAL REPRESENTATIVE, THE WILDERNESS SOCIETY, ATLANTA, GA.

Mr. **Fletcher**. Mr. Chairman, I am Fletcher Shives, the southeast regional representative, the Wilderness Society. The society has closely followed the concerns raised by the possibility of phosphate mining in the Osceola National Forest and the need for wilderness designation of several tracts within national forests in Florida.

And I am pleased to be here today to have the opportunity to express to you the endorsement of the Wilderness Society for CS/H.R. 9, the Florida Wilderness Act of 1982.

The Wilderness Society has supported and continues to support the State-by-State compromise approach to resolution of RARE II wilderness designations as represented by the bill now before you. This approach was agreed to by all interested parties, including the timber industry during the 96th Congress.

This approach was used successfully in statewide RARE II bills for Colorado, New Mexico, and Alaska. And in the first session of this Congress, the House passed not only the Florida bill but also a California bill following the same compromise formula.

We are disturbed that the Reagan administration is now attempting to set aside this working solution for RARE II wilderness designation.

The administration has strongly supported the antiwilderness hard release approach of S. 842, H.R. 4047, and most recently and most disturbing, offered H.R. 5603, which would not only set unreasonable deadlines but also open all wilderness areas to oil/gas and mineral entry at the sole discretion of the President.

It appears that whenever a proposed or designated wilderness has any resource conflict or might be used for developed rather than undeveloped recreation, the administration will oppose wilderness designation and seek to overturn existing wilderness designations.

Furthermore, the administration seems totally unwilling to resolve resource management conflicts by exchanges or buyouts, not only in Florida but even in areas such as the Cranberry in West Virginia which contains coal that nobody wants mined, not even the owners of the coal rights.

The bill before the subcommittee today presents another example of a situation where a possible conflict between wilderness and another resource, in this case phosphate, can be resolved by some sort of exchange or buyout mechanism.

The need to resolve the status of the 41 phosphate mining applications in the Osceola National Forest is critical. The Reagan administration is attempting to overturn the findings of all of the independent agencies which repeatedly stated that phosphate mining should not be allowed in the Osceola.

The stated assurance of Interior Secretary Watt in January of this year that he would not be involved in the phosphate issue runs counter to the letter written last summer to Anne Gorsuch of EPA by Garrey Caruthers, Assistant Secretary for Land and Water Resources. In his letter, Caruthers urged the EPA to "formally withdraw any previous concerns" and asked for a "quick response" because "industry is pressing me on this issue."

It is clear that the Reagan administration continues to place the interests of a few above the greater public good served by Osceola National Forest fulfilling the multiple uses available without phosphate mining and with wilderness designation of a small portion of the Osceola and other national forests in Florida.

A number of agencies have recognized the need to prohibit the phosphate mining. These include the Fish and Wildlife Service, the Environmental Protection Agency, the Forest Service, the State of Florida and a number of conservation organizations intimately familiar with the lands in question.

The adverse effects of mining on the Osceola would extend far beyond the forest boundaries. This adverse influence likely would be most severe on the Suwannee River, the last of the great southeast river systems that remains much as our forebears found it.

Despite industry and administration references to promising research, the present state of reclamation for surface mined phosphate deposits is inadequate to assure the future water quality of the Suwannee River and the productivity of the many ecosystems supported by the river and the Osceola National Forest.

In Mr. Crowell's testimony before you this morning, you heard him at first say that research had been developed and then admit to you under questioning that indeed that research was being developed and was not yet fully developed. It is very much in the experimental stages and those experiments are being carried out in a part of Florida quite different from the area covered by the lease applications in the Osceola National Forest.

Phosphate mining in the Osceola could severely damage if not destroy this river as we now know it. Mine reclamation procedures in central Florida are unproven for use in the entirely different north Florida environment.

It is most important that the subcommittee recognize that no valid lease rights exist until the determination of a valuable deposit is made. Present Forest Service stipulations may allow a determination of "valuable deposit" and therefore a valid lease right. However, we do not believe, nor do the facts support, that such a determination could be made under stipulations that would be necessary and sufficient to restore the existing productive ecosystem and to protect the values of resources which would otherwise be forever lost.

It is imperative that any exchange of lease rights language require proof of a valuable deposit under stipulations that would fully protect all of the forest resources.

Although resolution of the phosphate lease applications is clearly the paramount issue, the administration is moving toward allowing development of the leases. They must be stopped. We, of course, support the proposed wilderness areas in the bill before you, as they are most worthy of inclusion in the national wilderness preservation system.

They would protect the great diversity and variety of fauna and flora, some of which are endangered species. It was indicated to you that black bear were not found in the areas subject to lease. I have been on the national forest. I have seen that there is black bear habitat. I have eaten from a black bear that was killed back in the area that is under application for leasing. I know that black bear exist in the area.

These wilderness areas contain a number of special attractions, which qualify them under the criteria established by the Congress for inclusion in the wilderness preservation system and they are fully deserving of such inclusion.

Although we fully support the concept of prohibition of phosphate leasing on the Osceola and the wilderness designations, we do have some recommendations for changes to the bill now before you. Specifically with regard to section 4(a)4, any decision to grant leases in the forest, including the wilderness, at some future date should require the explicit consent of the Congress in the form of enabling legislation allowing the Secretary to issue a preference right lease.

Only the Congress can establish a wilderness area and the Congress should retain the authority to deauthorize or to allow activities, such as leasing, which would have the de facto effect of deauthorizing wilderness areas.

The Forest Service has, under the Reagan administration, placed one more obstacle in the path of wilderness designations in our eastern forests. In August 1981, the eastern forests were prohibited from recommending wilderness designation in the forest plans for RARE II further planning areas.

This directive was another example of selective and convenient paralysis by analysis insomuch as the Forest Service is now required to ask the Congress to designate as wilderness study areas those areas previously classified as further planning.

Our western forests have not been so encumbered. Because of this additional obstacle to wilderness designation and because of the administration's efforts to impose unreasonably short time limits for wilderness designation, we urge the committee to add the five further planning areas to this bill for immediate designation as units of our national wilderness preservation system.

I was happy to hear Senator Hawkins this morning also recommend this same addition of the bill to you.

Inclusion of all 12 areas would provide a total of 94,072 acres of national forest wilderness in Florida. This amount would represent 8.69 percent of the national forest and 5.2 percent of the total forested area of the State. These figures compare favorably with the wilderness acreage now designated in national forests in other States. For instance, California has 10.48 percent of its national forests as wilderness; Idaho 18.82 percent; Oregon 7.81 percent;

North Carolina 3.52 percent, and the national average for all national forest forested areas is 11.83 percent.

I thank you for your attention and hope that the subcommittee will be able to act favorably and expeditiously on our recommendation.

[The prepared statement of Mr. Shives follows:]

THE WILDERNESS SOCIETY

FOUNDED IN 1935

Statement on CS/H.R.9, presented by Fletcher G. Shives, Southeast Regional Representative, The Wilderness Society, before the Senate Subcommittee on Energy and Natural Resources

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Mr. Chairman and Members of the Subcommittee, I am Fletcher Shives, Southeast Regional Representative of The Wilderness Society, a non-profit national conservation organization founded in 1935 and dedicated to wilderness preservation and the wise management of all public lands. The Society has closely followed the concerns raised by the possibility of phosphate mining in the Osceola National Forest and the need for wilderness designation of several tracts within national forests in Florida. I am pleased to have this opportunity to express to you the endorsement of the Wilderness Society for CS/H.R.9, The Florida Wilderness Act of 1982.

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We are disturbed that the Reagan administration is now attempting to set aside this working solution for RARE II wilderness designation. The

Administration has strongly supported the anti-wilderness "hard" release approach of S.842, H.R. 4047, and most recently (and most disturbing) offered H.R.5603, which would not only set unreasonable deadlines but also open all wilderness areas to oil/gas and mineral entry at the sole discretion of the President. It appears that whenever a proposed (or designated) wilderness has any resource conflict, or might be used for developed rather than undeveloped recreation, the Administration will oppose wilderness designation and seek to overturn existing wilderness designations. Furthermore, the Administration seems totally unwilling to resolve resource management conflicts by exchanges or buy-outs--not only in Florida but even in areas such as the Cranberry in West Virginia which contains coal that nobody wants mined, not even the owners of the coal rights. The bill before the subcommittee today presents another example of a situation where a possible conflict between wilderness and another resource, in this case phosphate, can be resolved by some sort of exchange or buy-out mechanism.

The need to resolve the status of the 41 phosphate mining applications in the Osceola National Forest is critical. The Reagan Administration is attempting to overturn the findings of all the independent agencies which repeatedly stated that phosphate mining should not be allowed in the Osceola.

The stated assurance of Interior Secretary Watt in January of this year that he would not be involved in the phosphate "issue" runs counter to the letter written last summer to Anne Gorsuch of EPA by Garrey Caruthers, Assistant Secretary for Land and Water Resources. In his letter, Caruthers urged the EPA "to formally withdraw any previous concerns" and asked for a "quick response" because "industry is pressing me on this issue." It is clear that the Reagan Administration continues to place the interests of a few above the greater public good served by a Osceola National Forest fulfilling the multiple uses available without phosphate mining and with wilderness designation of a small portion of the Osceola and other National Forests.

Agencies that have recognized the extremely deleterious effects that mining would cause, include the Fish and Wildlife Service, the Environmental Protection Agency, the Forest Service, the State of Florida, and numerous conservation organizations intimately familiar with the lands in question. If this nation's concern for the continued productivity of our forest and aquatic ecosystems is to have any real meaning in times of increasing scarcity of renewable natural resources, then we must now recognize and stop the destructive influence this mining would have. The permanent sacrifice of 52,000 acres (nearly one-third of the Osceola Forest) and the associated timber, fish, wildlife, wetlands, and recreational opportunities, for phosphate deposits of unproven value and unproven current need, would certainly be the height of folly.

The adverse effects of mining on the Osceola would extend far beyond the forest boundaries. This adverse influence likely would be most severe on the Suwannee River, the last of the great southeast river systems that remains much as our forebears found it. Despite industry and Administration references to "promising research," the present state of reclamation for surface mined phosphate deposits is inadequate to assure the future water quality of the Suwannee River and the productivity of the many ecosystems supported by the river and the Osceola National Forest. Sport and commercial fishing as well as myriad other recreational uses are dependent upon the unimpaired Suwannee River. Phosphate mining in the Osceola could severely damage, if not destroy, this river as we now know it. Mine reclamation procedures in central Florida are unproven for use in the entirely different north Florida environment.

It is most important that the subcommittee recognize that no valid lease rights exist until the determination of a valuable deposit is made. Present Forest Service stipulations may allow a determination of "valuable deposit" and therefore a valid lease right. However, we do not believe, nor do the facts support, that such a determination could be made under stipulations necessary and sufficient to restore the existing productive ecosystem and to protect the values of resources which would otherwise be forever lost. Therefore it is imperative that any exchange of lease rights language require proof of a "valuable deposit" under stipulations that would fully protect all of the forest resources.

Resolution of the phosphate lease applications is clearly the paramount issue. The Administration is moving toward allowing development of the leases. They must be stopped. We of course strongly support the proposed wilderness areas in CS/H.R.9 because they are most deserving of inclusion in the National Wilderness Preservation System. The diversity of ecosystems, the range of recreational opportunities, the invaluable contribution to the productivity of associated aquatic and land ecosystems -- all of these factors combine to put the Osceola, Ocala, and Apalachicola National Forest wilderness proposals in urgent need of protection for present and future generations as components of our wilderness system.

These wilderness areas would protect a diverse fauna including rare and endangered species such as the Florida panther, red cockaded woodpecker, alligator, and Florida manatee. The diversity of plant species is also remarkable. The plant list includes swampland composed of slash pine, cypress, tupelo, blackgum, red maple, titi, Atlantic white cedar, palmetto, and others, some of which are also endangered species. The juxtaposition of the various plant communities with their associated animals makes an exotically beautiful scene. Special natural attractions such as Alexander Springs with a flow of 76 million gallons per day of crystal clear water, further typify the reasons protection by wilderness designation is essential. The Bradwell Bay Wilderness Addition and the Big Gum Swamp Wilderness are, respectively, as close as 30 miles to Tallahassee and one hour's drive from Jacksonville. Designation of the wilderness areas would assure availability of prime hiking, canoeing, birding, and wildlife observation lands, not only to the many residents of these population centers, but also to large numbers of people nationwide who might otherwise be forever denied those experiences.

Although we fully support the concept of prohibition of phosphate leasing on the Osceola and the Wilderness designations, we do have some recommendations for changes to the bill now before you. Specifically with regard to Sec 4(a)4, any decision to grant leases in the forest, including the wilderness, at some future date should require the explicit consent of the Congress in the form of enabling legislation allowing the Secretary to issue a preference right lease. Only the Congress can establish a wilderness area and the Congress should retain the authority to deauthorize or to allow activities, such as leasing, which would have the de facto effect of deauthorizing wilderness areas.

The Forest Service has, under the Reagan Administration, placed one more obstacle in the path of wilderness designations in our Eastern forests. In August of 1981 the Eastern Forests were prohibited from recommending wilderness designation in the forest plans fo. RARE II Further Planning areas. This directive was another example of "paralysis by analysis" in so much as the Forest Service is now to ask the Congress to designate as "Wilderness Study

Areas" those areas previously classified as "Further Planning." Our Western forests have not been so encumbered. Because of this additional obstacle to wilderness designation and because of the Administration's efforts to impose unreasonably short time limits for wilderness designation, we urge the committee to add the five "Further Planning" areas to this bill for immediate designation as units of our National Wilderness Preservation System. These areas are: Buck Lake (5,680 acres) and Farles Prairie (3,305 acres), both in the Ocala National Forest, and Natural Area (4,380 acres), Clear Lake (6,485 acres), and Savannah (1,990 acres), in the Apalachicola National Forest.

Inclusion of all 12 areas would provide a total of 94,072 acres of National Forest wilderness in Florida. This amount would be 8.69% of the National Forest and 5.2% of the total forested area of the state. These figures compare favorably with the wilderness acreage designated in National Forests in other states: California, 10.48%; Idaho, 18.82%; Oregon, 7.81%; North Carolina, 3.52%; national average, 11.83%.

We hope that the subcommittee will act favorably and expeditiously on this bill and our recommendations. Thank you very much.

Senator WALLOP. I would be interested in your definition of summary. Is that a word-for-word summary?

Mr. SHIVES. No, sir. It is not. I did delete several paragraphs.

Senator WALLOP. Let me just suggest, and Senator Hawkins can speak for herself, but it was my understanding her testimony was that further planning areas not be released. I don't think she wanted them necessarily designated as wilderness. That may be something that you can talk to her about.

I think her testimony did not say that she wanted them designated as wilderness.

Next is Peter Mott.

STATEMENT OF PETER RHOADES MOTT, PRESIDENT, FLORIDA AUDUBON SOCIETY, MAITLAND, FLA.

Mr. MOTT. Thank you, Senator Wallop. I will see if I can do a little summarizing and depart from my testimony, which is right here.

Senator WALLOP. It will all be included.

Mr. MOTT. I would like to make four points. The first of them is that the Florida Audubon Society, as you know, is a statewide organization with 35,000 members in the State and we as an organization of conservationists have followed the development of the phosphate industry since the very beginning.

In fact in recent years we have played a significant role in helping the State develop reclamation plans. So we know about phosphate mining and we know about reclamation.

I know you have heard already that virtually no one in Florida wants this phosphate mining process. I am sure you have also heard that we believe that misrepresentation is occurring in the process of developing stipulations and in establishing the valuable deposit certificate. We believe that those misrepresentations are coming from a number of sources, but that they are very important ones.

I, myself, have visited reclamation projects in central Florida and I have visited the Osceola National Forest. Anyone that tells you that wetland reclamation is established or well understood is not telling you the truth. The two projects that I have seen, one of them consists principally at this point of bare earth, since it is only started.

The second one is 3 years old and it consists basically of hard-pan with a few wetland species growing in it, some of them growing well. But it is a long way from establishing that wetlands can be redeveloped in less than 100 years at the least.

The third point I would like to make is that there seems to be little need to mine this phosphate at this point. I know of no one who would advocate unfair treatment for those people who have invested their capital in these lands. I think almost everyone believes that they should be compensated in some way.

You have been told, I am sure, that at least 20 percent of the work force is laid off in Florida at present. There are mountains of phosphate accumulating because there are no customers for it at this time. We think while there may at some point come a time when that phosphate is needed for national security, we hope it will be ours not foreign security, that the area might be considered for reopening.

We urge you and your committee to report favorably on Senator Chiles' bill and we hope you will do it fast, because we think that other elements of the Government are moving as quickly as they can to establish a certificate of valuable deposit and to grant permits.

Thank you.

[The prepared statement of Mr. Mott follows:]

TESTIMONY OF
PETER RHOADES MOTT, PRESIDENT, FLORIDA AUDUBON SOCIETY
BEFORE THE SENATE PUBLIC LANDS SUBCOMMITTEE
APRIL 1, 1982

MY NAME IS PETER MOTT. I AM PRESIDENT OF THE FLORIDA AUDUBON SOCIETY, AN ORGANIZATION OF 48 CHAPTERS AND 35,000 MEMBERS IN THE STATE OF FLORIDA.

FLORIDA AUDUBON SOCIETY HAS A LONG ASSOCIATION WITH THE FLORIDA PHOSPHATE INDUSTRY. FROM THE BEGINNING THE SOCIETY HAS BEEN CONCERNED ABOUT THE EFFECTS OF EXTRACTING PHOSPHATE ROCK FROM THE GROUND. IN ADDITION, THE SOCIETY HAS SHOWN SPECIAL CONCERN OVER THE RECLAMATION OF LAND VIOLENTLY DISRUPTED BY THE PROCESS OF EXTRACTING THE ORE. THE SOCIETY HAS BEEN AN ACTIVE PARTICIPANT WITH THE STATE IN DRAFTING THE PHOSPHATE LAND RECLAMATION RULES RECENTLY ADOPTED.

ALL OF THE SENIOR STAFF MEMBERS HAVE VISITED MOST OF THE PHOSPHATE MINES IN THE STATE AND HAVE REVIEWED ON-SITE PRESENTATIONS OF RECLAMATION ACTIVITIES BY A NUMBER OF THE PHOSPHATE COMPANIES. WE HAVE PAID SPECIAL ATTENTION TO THE RECLAMATION OF UPLANDS AND THE INCIPIENT RECLAMATION OF WETLAND AREAS.

TESTIMONY
APRIL 1, 1982

IT APPEARS AT THIS TIME THAT THE DEPARTMENT OF THE INTERIOR IS PREPARED TO OPEN THE OSCEOLA NATIONAL FOREST TO PHOSPHATE MINING IN THE FACE OF VIRTUALLY UNANIMOUS OPPOSITION FROM THE STATE OF FLORIDA AND ITS PEOPLE. INTERIOR IS PREPARED TO IGNORE RECOMMENDATIONS FROM THE ENVIRONMENTAL PROTECTION AGENCY, TO WATER DOWN STIPULATIONS FROM THE UNITED STATES FOREST SERVICE AND PROCEED WITH THE BLAND ASSURANCE THAT THE FOREST WILL BE RESTORED.

WE AT FLORIDA AUDUBON SEE NO EVIDENCE TO CONVINCE US THAT THERE IS REASON TO BELIEVE THAT ANY SORT OF RECLAMATION OF THE OSCEOLA NATIONAL FOREST TO A CONDITION APPROACHING ITS PRESENT STATUS CAN BE ACHIEVED. THE TECHNOLOGY OF PHOSPHATE MINE RECLAMATION IS THOROUGHLY DEMONSTRATED WITH REGARD TO UPLANDS. WE SEE OVER AND OVER AGAIN THAT THE PHOSPHATE COMPANIES CAN TRANSFORM THE SCARRED LANDSCAPE LEFT BY THEIR ACTIVITIES INTO PRODUCTIVE GRASSLANDS. WE HAVE SOME BEGINNING EVIDENCE THAT THOSE PHOSPHATE LANDS CAN BE RECLAIMED AS CITRUS GROVES. THE EVIDENCE ON OTHER SORTS OF RECLAMATION, HOWEVER, IS VERY THIN. STUDIES OF WETLAND RECLAMATION ARE JUST BEGINNING AND THE VALUE OF RECLAMATION EFFORTS IN THAT AREA IS STILL UNKNOWN.

BOTH FLORIDA STATE ENVIRONMENTAL AGENCIES AND THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY JOIN FLORIDA AUDUBON SOCIETY

TESTIMONY
APRIL 1, 1982

IN EXPRESSING SKEPTICISM ABOUT THE TECHNOLOGY OF RESTORING WETLANDS.

I HAVE CAREFULLY EXAMINED WETLAND RESTORATION PROJECTS AT AGRICO CORPORATION NEAR MULBERRY AND INTERNATIONAL MINERALS AND CHEMICAL CORPORATION NEAR LAKELAND. BOTH PROJECTS ARE IN THEIR EARLY YEARS. BOTH SHOW SOME PROMISE BUT I BELIEVE IT IS AN ACT OF ARROGANCE TO SUGGEST THAT A WETLAND DEVELOPED BY NATURAL SYSTEMS OVER HUNDREDS OF YEARS CAN BE RESTORED IN LESS TIME BY MAN.

IN THE OSCEOLA NATIONAL FOREST THE PHOSPHATE ORE DEPOSITS LIE UNDER FOUR TYPES OF HABITAT -- CREEK SWAMPS, BAY SWAMPS, CYPRESS SWAMPS AND PINE-PALMETTO FLATWOODS. THE TECHNOLOGY OF RECLAMATION IN ITS PRESENT STATE MIGHT ONLY BE ABLE TO RESTORE A HABITAT ROUGHLY RESEMBLING PINE FLATWOODS. THE OTHER THREE MAJOR HABITATS IN THE OSCEOLA NATIONAL FOREST, WITH PRESENT TECHNOLOGY, CANNOT, IN OUR OPINION, BE RECLAIMED.

THE SUGGESTION THAT A NEW PROCESS, THE BREWSTER PROCESS, WHICH WILL MIX SAND AND CLAY, OFFERS SOME GREATER HOPE FOR WETLANDS RESTORATION, IS SIMPLY UNPROVEN. THE PROCESS OF SAND-CLAY MIX HAS BEEN AROUND FOR MANY YEARS. IT HAS BEEN ONLY MARGINALLY BENEFICIAL IN REDUCING THE SETTLING TIME OF SLIME PONDS AND IS NOT A COMPREHENSIVE RECLAMATION CURE.

TESTIMONY
APRIL 1, 1982

THERE MAY COME A TIME IN OUR HISTORY WHEN THE NEED FOR THE PHOSPHATE UNDER THE OSCEOLA NATIONAL FOREST BECOMES SO GREAT THAT WE ARE WILLING TO DESTROY A BEAUTIFUL AND ECOLOGICALLY IMPORTANT AREA OF OUR STATE IN ORDER TO HARVEST THE RESOURCE. WE BELIEVE THAT THAT TIME HAS NOT ARRIVED.

WE SEE LITTLE HOPE FOR RESTORING LARGE PARTS OF THE NATURAL HABITAT IN THE OSCEOLA NATIONAL FOREST TO THEIR PRESENT CONDITION. WE SEE NO JUSTIFICATION FOR DESTROYING 300-YEAR-OLD PINE TREES, HUNDREDS OF VIRGIN CYPRESSES, 100-FOOT-TALL BLACK GUMS, SWEET GUMS AND RED MAPLES LINING THE CREEK SWAMPS IN THE FOREST.

WE URGE THIS COMMITTEE TO ACT FAVORABLY ON SENATOR CHILES' BILL TO PROHIBIT PHOSPHATE MINING IN THE OSCEOLA.

WE URGE YOU TO FOLLOW THE EXAMPLE SET BY THE HOUSE AND PASS THIS BILL BEFORE THE DEPARTMENT OF THE INTERIOR ISSUES PERMITS FOR MINING UNNEEDED PHOSPHATE IN THE WRONG PLACE.

THANK YOU.

Senator Wallop. Thank you very much, Mr. Mott. We appreciate your testimony.

Mr. Alderson.

STATEMENT OF DOUG ALDERSON, LEGISLATIVE CHAIRMAN, FLORIDA CHAPTER, THE SIERRA CLUB, TALLAHASSEE, FLA.

Mr. Alderson. Thank you, Mr. Chairman. First off, I want to talk a little bit about the wilderness areas. I have been involved in very few processes to begin in Florida. And these wilderness areas have been supported by the Governor, who did speak earlier, the Florida Audubon, Florida Trails, Florida bipartisans, several regional audubon societies, the garden clubs, and hundreds of individuals.

Most of these areas receive 80 to 90 percent public support during the Forest Service's public input process. Most of the opposition was in the nature of form letters and not in the nature of personal letters. I suggest that is very relevant.

The proposals represent less than 4 percent of the national forest acreage and 0.3 percent of the 60 million acres of commercial forest land in Florida. I think compared to some of the controversies in other States this is a very, the Florida areas represent a very minimal type of controversy, if any, at this point.

They do represent an impressive cross-section of ecosystems and land forms, hardwood swamps, black water rivers, crystal clear springs and spring runs, Atlantic white cedar forests, vast prairies, sand pine ecosystems, sand hill lakes, several unique habitats, I think, would add a lot of variety to the wilderness system.

I urge you to look at the appendix at the end of my testimony and see some of the descriptions of the areas. I have been to all of these areas and they are beautiful and they are close to a lot of population centers. I think they would benefit the State of Florida immensely.

In reference to relief language, Florida is different than a lot of other States in regard to controversy over the released lands. As far as I know we have had no controversy over released lands in Florida. We only have one wilderness area in a national forest at the moment.

The Forest Service has not begun any process of evaluating the further planning areas. I talked to them Monday and they plan to include us in their regular forest planning process, which is ongoing.

So we hope we don't get caught up in a controversy that is really centered around other States in release language. We hope that if there is some kind of release language in the bill that we would add the further planning areas in the bill as it stands. Otherwise we can live with the existing timeframe, which is quite a few years, to study these areas and look at their wilderness qualities.

In regard to the phosphate mining in the Osceola Forest, as you have seen there has been incredible Florida opposition to this mining. I have never seen an issue, even the cross Florida barge canal was not as unified as far as the opposition. So I think that is a major factor in taking into account the Florida opposition to the mining.

Some people call it the palmetto rebellion, which is the opposite of the sagebrush rebellion.

I would like to summarize the impacts with an EPA letter. It is brief, a couple of paragraphs. This was a 1980 memo from EPA, region IV to the EPA in Washington, and it states:

> In conclusion, the project, even in light of the supplement, should be rated environmentally unsatisfactory for the following reasons, permanent destruction of large acreage of wetlands and associated streams, which are important to hardwood timber production, food web dynamics, aquifer recharge, flood storage and flow metering, and serve as critical habitat to indigenous biota.
>
> Adverse impacts to surface and ground water through reduced ground water levels, soil erosion and sedimentation, and changes in the chemical water quality of streams potentially including the Suwannee River, which is considered for designation as a wild and scenic river.

At this point the Suwannee is not considered as a wild and scenic river, but it is involved in the State planning process, which better includes local governments in protecting the Suwannee. I think that is a very innovative step to protect that river.

Further impacts, one of the major species impacts was on the Florida black bear. According to the Florida Game and Fresh Water Fish Commission four-fifths of the habitat, of the black bear habitat in the Osceola Forest would be destroyed. Nearly 15 miles of the Florida Trail, which should run the length of the State in a few years, would be destroyed. They would have to relocate it on the roads, most likely.

In looking at this issue, we really need to look at the regional prospective. Already the proposed mining in the Suwannee watershed would cover 24,000 acres of wetlands and 56,000 acres of uplands and 7,000 acres have already been mined by Occidental Chemical Co.

There is drainage just above the Osceola Forest in the Pintex Swamp, which is a very large swamp, that serves as, it is between the Okefenokee Swamp and the Osceola, and that would be drain for pine tree space claim.

The impact on the bear from these regional activities is significant, but if the Osceola were mined, I think the black bear would be further impacted. These regional activities highlight the need to protect the Osceola National Forest.

As you have heard on the reclamation points, it is experimental in regard to any native habitats. These habitats take thousands of years to develop and it is very hard to reclaim them in just a few years. Let me point out that Mr. Crowell, who was up here earlier, indicated that a lot of these reclamation technique observations were made on the ground by Forest Service personnel.

I submit that a lot of the forest personnel in the State and the region did not find the sand-clay mix technique very satisfactory. I will quote from a letter from the State and regional offices of the Forest Service, their findings on the sand-clay mix.

Finding, deals with sand tailings over the sand-clay mix and their finding is that these sandy areas are a poor growth medium for the type of plant communities now grown in the Osceola National Forest. Establishment would be difficult and productivity low. This is from the Forest Service.

Conclusion two, under forest growth capability, it is estimated that plant communities on the Osceola National Forest would be very difficult to reestablish and productivity would be low on land reclaimed by the Brewster process, which is the sand-clay mix that you have heard about.

So I submit that these reclamation techniques, these claims were not made on the ground. They were not made in the regional office or in the State but they were made in the political circus of Washington, D.C. I think we need to clarify the law that Mr. Crowell is talking about as far as the State law and reclamation. He submitted it would apply to the forest. That is chapter 211, 1975 law. The Kerman Gee Co. says that this law will not apply to the Osceola National Forest. And the State now, they do not know if this law will apply or not. This is a hazy question.

And I think that any statement that says that this law will definitely apply is not accurate at this time. There was earlier quoted the Len Greenwald letter. I believe it was the January 16, 1980, letter, that Len Greenwald sent to the BLM, 1978 letter, I am sorry, and he refers to the woodpeckers and the impacts. He did say that these activities would not render the woodpecker extinct. This is a federally endangered species. But he points out later in the letter, this was not mentioned, that after 53 percent of Osceola's total population of woodpeckers could be lost due to the mining. He points out that the Osceola population of these woodpeckers is the second largest in the State.

And he concludes:

> Therefore I consider the loss of this many colonies in the Osceola National Forest is likely to jeopardize the continued existence of an integral segment of the portarecacada population, if all the leases are mined as planned.

I think we need to look at some of these letters in context. Mr. Greenwald did propose some mitigation measures. As far as I know none of these tracks have been taken out that would help mitigate the impact. Areas like the Big Gum Swamp would be very helpful if protected for the black bear and so forth if mining is allowed. At this point, these areas have not been taken out.

Senator **Wallop**. Did not the second set of stipulations suggest that these areas would only be selectively mined, and therefore those areas would be taken out?

Mr. **Alderson**. I am not sure if that was spelled out in the stipulations or not.

Senator **Wallop**. The staff informed me that it was.

Mr. **Alderson**. I am not sure. As far as I know these areas are not going to be taken out, the last I heard, but I may be wrong.

Senator **Wallop**. Anyway, continue.

Mr. **Alderson**. I would like to make one more point in reference to the clear-cutting argument by the Global Co., when they maintain that the impact of 2,000 acres a year of clearcutting on the forest would be even more so than the mining of 1,000 acres, up to 1,000 acres per year and I submit that even though we are not a great fan of clearcutting, clearcutting would be interspersed in tracks not more than 80 acres throughout the entire forest.

Regeneration of clearcut areas in the Osceola Forest is very good. Within a year or two you are going to see some pine seedlings sprouting up. I think the impacts of mining huge blocks of phosphate, up to 750 to 1,000 acres a year, without them being interspersed with forest would be a lot more severe on wildlife habitat than clearcutting throughout the entire forest.

I urge you that in view of the economic specifications the impact on wildlife, the impacts on the watershed, the Suwannee and the other points that were made today that mining in the Osceola would be harmful and that it would be unnecessary.

Thank you.

[The prepared statement of Mr. Alderson follows:]

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SIERRA CLUB The Florida Chapter

STATEMENT OF DOUG ALDERSON
REPRESENTING THE FLORIDA CHAPTER OF SIERRA CLUB
BEFORE THE SENATE SUBCOMMITTEE ON ENERGY AND NATURAL RESOURCES
ON CS/H.R. 9

APRIL 1, 1982

Mr. Chairman and Members of the Subcommittee, I am Doug Alderson, Legislative Chairman of the Florida Chapter of Sierra Club. I appreciate the opportunity to support CS/H.R. 9 by Representative Fuqua and Senators Hawkins and Chiles to provide for designation as wilderness areas in the Ocala, Osceola and Apalachicola National Forests. CS/H.R. 9 would further disallow phosphate strip-mining in the Osceola National Forest. I have been deeply involved in both issues for the past four years and will first comment on the proposed addition of over 50,000 acres to the National Wilderness Preservation System. This addition has been endorsed by Florida Governor Bob Graham, the Florida Chapter of Sierra Club, the Florida Audubon Society, the Florida Trail Association, Florida Bi-Partisans, and several regional Audubon societies and garden clubs.

The seven wilderness proposals represent less than four percent of the national forest acreage in Florida and around .3 percent of the 16 million acres of commercial forest land in Florida. The areas are predominately hardwood, not prime timberland. And since there is only one existing wilderness area in a Florida national forest, these proposals have received minimal controversy. Consequently, most of the areas before you received public input which supported wilderness designation in the 80-90 percent categories during the Forest Service's public input stage of the RARE II process.

The areas represent an impressive cross section of ecosystems and landforms.

There are hardwood swamps, blackwater rivers, crystal clear springs and spring runs, cypress swamps, Atlantic White Cedar forests, vast praries, Sand Pine ecosystems and sand hill lakes. Several threatened and endangered species are included as well. The appendix at the end of my written testimony highlights the many unique qualities of each area. These areas need and deserve protection under the National Wilderness Preservation System.

There is another matter that affects other wilderness lands in Florida's national forests that I would like to comment on. This concerns release language. It needs to be understood that Florida is a state that has not been polarized by the wilderness release debate. The national forest acreage in Florida is so small compared to other states and the possible wilderness areas are so marginal, that I am disturbed of any liklihood that these and future wilderness proposals may be jeopardized by a release language debate that is largely centered upon other states. Therefore, I must urge you to add Florida's five further planning areas to CS/H.R. 9 as wilderness proposals or at least proposals for Wilderness Study Areas. These five areas are indeed impressive and their acreage totals only 21,795 acres. Public support for wilderness ranged from 60% in favor to 94% during the Forest Service's public input stage for RARE II. Habitats in the five areas range from flowering wet praries to one of the last Longleaf Pine forests of its size to a virgin hardwood swamp that contains world record size trees. I urge you to look at the wilderness appendix for descriptions of these areas as well and decide for yourself whether we should forever lose the opportunity to protect these areas as wilderness.

Included in CS/H.R. 9 is a provision directing the Department of Interior to not issue phosphate mining leases in the Osceola National Forest until there is a national emergency. I will now address the issue. First, the disallowing of the leases has received as much or more strong public support as the wilderness proposals, and it is not often that Florida's governor and entire congressional delegation are united on one issue. The overwhelming opposition to the mining is for good reason. The nature of a phosphate stripmine is one that is completely foreign to the multiple-use concept, especially in a national forest so small. Wildlife is destroyed or chased away. Many species of native vegetation are lost, never to return. The original contours of the land are altered. The impact on recreation goes without mention and watersheds are often disrupted by the draglines and huge spray gun mining operations. All of the environmental impact statements and studies that have been completed over the last decade have shown the detrimental impacts that phosphate mining would have on the multiple use values of the Osceola Forest. A January 3, 1980, memo from EPA region IV to EPA Washington summarizes the probable impacts:

> "In conclusion, the project, even in light of the Supplement, should be rated environmentally unsatisfactory for the following reasons:
>
> 1. Permanent destruction of large acreages of wetlands and associated streams which are important to hardwood timber production, food web dynamics, aquifer recharge, flood storage and flow metering, and serve as critical habitat to indigenous biota.
> 2. Adverse impacts to surface and groun water through reduced ground water levels, soil erosion, and sedimentation, and changes in the chemical water quality of streams potentially including the Suwannee River, which is considered for designation as a wild and scenic river."

It is sad that the EPA in Washington has not heeded their own regional office or the years of scientific study. We certainly hope that the state's actions to prevent water quality degradation from any mining in the Osceola will be successful because the Forest Service stipulations fpr mining are not strong enough to do so. Already, proposed mining on nearby private land in the Suwannee watershed will destroy 24,000 acres of wetlands and 56,000 acres of uplands, resulting in severe wildlife loss, water quality degradation and ground water depletion. These impacts, coupled with the proposed drainage of the Pinhook Swamp by private paper companies just above the Osceola, further highlights the need to protect this forest. The threatened Florida Black Bear which would already be impacted by private developments would especially be impacted by any Osceola Forest mining as four-fifths of the Osceola's black bear habitat lies in the area in question (Florida Game and Fresh water Fish Commission). Over 15 miles of the proposed 1100 mile Florida Trail would be destroyed along with some of the oldest pine and hardwood forests in the region. But as stated before, the major impact of the proposed mining would be on the region's watershed, and watershed protection along with timber production was the major reason that the Osceola was purchased under the Weeks Law of 1911. Besides harboring three major tributaries to the Suwannee, the Osceola is a major backwater area for the famed Okefenokee Swamp.

In regards to reclamation after mining, we are extremely skeptical of any claims that the Osceola National Forest can be reclaimed to a condition approaching its present state. The State of Florida has found that the reclamation of any given native habitat, especially wetlands, has not even left the starting block. There is only beginning evidence to suggest that old phosphate mines can be transformed into productive grasslands and orange groves. A native piney flatwoods habitat or cypress grove is an entirely different story, especially when considering an area's soil profile, hydrology and vast array of native plant and animal species. These habitats have taken thousands of years to develop. They are not something that one can duplicate in a very short time, even though some of the lease applicants gave the impression that if a board were ground into sawdust, they could restore the wood's grain.

We also question the economic justifications to mine phosphate in the Osceola. A worldwide phosphate glut is leaving thousands jobless in Florida and government projections indicate that private domestic reserves will last through 2020 A.D., a 59% export rate notwithstanding. Also, we feel that if reasonable stipulations were regarding the proposed mining, that there would not be a valuable deposit of phosphate in the Osceola. These facts indicate that proposed phosphate strip-mining in the Osceola National Forest is unnecessary and inexcuseable.

While phosphate mining appears contrary to the multiple-use concept, wilderness designation, on the other hand, provides for a variety of uses such as watershed management, wildlife protection, recreation and range management--all recognized uses under the multiple-use concept. Wilderness designation does not represent the other extreme. To have a wilderness area such as the Big Gum Swamp in the Osceola National Forest would certainly round out recreational opportunities and conservation purposes while still keeping well over 90 percent of the forest open to timber cutting and other consumptive uses. The same is true of all the wilderness proposals. I strongly urge you to pass CS/H.R. 9. Thankyou.

Appendix A

Description of Seven Areas Proposed For Wilderness Designation In CS/H.R. 39

OCALA NATIONAL FOREST

Billies Bay and Alexander Springs - These adjacent tracts amount to nearly 11,000 acres. They contain prime hardwood swamps, spring runs and springs. The Alexander Springs Area, especially, is a prime candidate, offering a 78 million gallon-a-day spring which feeds a 22 mile canoe stream. Manatees, eagles and osprey are found in and along the river and the area is a prime panther habitat.

Juniper Prarie - This 13,600 acre area contains shallow lakes, prarie, swamp and a freshwater spring and stream. It has extremely high recreational use, highlighted by a section of the Florida Trail. Public support for this addition was 97 percent.

Little Lake George - This area borders the St. Johns and Oklawaha Rivers and Bear Creek runs through the area, suitable for canoe only. On site field studies of the area have uncovered seven soil types, unnusual for an area this size. There are numerous ponds and a well defined transition zone between low swamp and higher pineland. Several large cypress and pines have been left for nesting purposes, some more than three feet in diameter, and only one 34 acre area has recently been logged. Manatee, Osprey, Bald Eagle, Indigo Snake, alligator and bear are all found in this area. Besides high recreational potential, this area would be extremely valuable for scientific study.

OSCEOLA NATIONAL FOREST

Big Gum Swamp - This 13,600 acre area has prime panther and bear habitat, species which tolerate only a small degree of human disturbance. It has the largest cypress swamp totally contained within national forest boundries and it is the primary source for the Middle Prong of the St. Mary's River. Within an hour's drive from the City of Jacksonville, one of Florida's many booming cities, this area would provide much needed wilderness recreation.

APALACHICOLA NATIONAL FOREST

Mud Swamp/New River - This is the wildest tract left unprotected in the Apalachicola National Forest. It contains large Atlantic White Cedar, pygmy cypress and varied habitat associations of hardwood hammock, titi, cypress swamp and pine ridge. Field investigations of the area have turned up at least two endangered orchids which depend upon retention of native groundcover. The area contains prime bear and panther habitat. It is a remnant of the 200,000 acre Tate's Hell Swamp directly below it which has been drained, bulldozed and planted with Slash Pine by private paper companies.

Bradwell Bay Addition - This 1,170 acre area along the Sopchoppy River, with its cypress, gum, maple, holly and pine is a prime area for hiking and canoeing. Several miles of the Florida Trail has been built along the river. Prime archaeological sites have been found in this area as well. Indian camps believed to date back to a great mound building civilization in the area a few hundred years ago may yield valuable evidence of the area's history. This area is only 30 miles from Tallahassee and it has tremendous recreational potential.

Appendix B

Description of Five Further Planning Areas That Should Be Included Into the Wilderness Preservation System

OCALA NATIONAL FOREST

Buck Lake - The Buck Lake proposal is an attempt to preserve a small part, 5,680 acres, of the unique sand pine ecosystem, the Big Scrub, the world's largest pure stand of this short-lived pine. Though considered commercial forest land, the unit is centered in a wildlife management area. The latest long range plan by the Forest Service sees the complete stand as an area for "regeneration" within the next decade or so. Several recent clearcuts can be found within the unit, but the large majority of timber in the unit has been uncut for decades.

Scattered throughout the sand pine forest are sand pine forest are sand live oak, myrtle oak, turkey oak, and an understory of gerberia, lichens, and palmetto. The understory is dense, almost impenetrable in places. Access through the forest is possible, however, due to trails maintained by the Forest Service for timber and fire suppression, and the Florida Trail passes through the northeast corner of the area. A number of large sinkholes, some more than one-fourth mile in diameter, are distributed over the rolling terrain. The threatened sandhill crane is just one of a number of threatened or endangered plant and animal species found here. There are no private inholdings on or near the unit.

Farles Prarie - The 3,305 acre area is primarily an open prarie with many lakes and ponds; some seasonal, others springfed. Longleaf, slash and sand pine, scrub oak, blueberry, and gallberry can be found on the higher ridge where the Florida Trail passes through. This area provides excellent hiking, primitive camping, canoeing, fishing and walk-in hunting opportunities.

OSCEOLA NATIONAL FOREST

Natural Area - Labeled "the most beautiful area in the Osceola" by those who have explored it, this outstanding 4,380 acre area of slash, longleaf, pond pine palmetto flatwoods also contains a large swamp of possibly virgin timber. A portion of this swamp has been designated a Research Natural Area by the Forest Service. The National champion Dahoon Holly (Ilex cassine) can be found here. Diverse wildlife habitat for the Florida Black Bear, bobcat, deer, indigo snake, turkey, fox, alligator and the carpenter tree frog is contained in the area. This is also an important watershed for the Middle Prong of the St. Mary's River.

Since this area lies adjacent to the privately owned Pinhook Swamp directly to the North, wilderness protection is even more crucial as proposals are being made by large paper companies to drain the Pinhook Swamp in order for increased pine production. Coupled with possible phosphate stripmining in the western third of the Osceola National Forest as well as large scale mining on private lands, the Florida Black Bear would be further endangered and in dire need of protected areas such as Natural Area and the adjacent Big Gum Swamp(currently, however, phosphate stipmining proposals cover large portions of Big Gum Swamp, not Natural Area).

APALACHICOLA NATIONAL FOREST

Clear Lake - Young pine trees are a common scene in Florida. One finds rows and rows of them throughout the state, even thoughout the nearby Apalachicola National Forest. Few areas in Florida, however, contain trees over the commercial harvesting age of twenty five to fifty years. This is what makes the 6,485 acre Clear Lake wilderness proposal unique. Located 10 miles southwest of Tallahassee in the Apalachicola Forest, the area contains the largest upland pine habitat of all the wilderness proposals and many of the stands are reaching impressive size. Within a couple of decades, visitors can gaze upon nearly virgin looking conditions, something that is becoming increasingly rare as traditional longleaf pine ecosystems are being converted to slash pine monocultures on a short rotation.

Already, the Clear Lake Area harbors the endangered Red-Cockaded Woodpecker, a species requiring old-age pine forests. The nature of the primarily open park-like stands provide excellent hiking and horseback riding opportunties and the interspersion of many small lakes, swamps and creeks offers more challenging exploration. Explorers of the area have seen fox, deer, possible bear signs and numerous uncommon birds. Clear Lake is the dominant water body in the southeastern tip of the area, a prime canoeing, fishing and camping spot. Wilderness designation would enhance all of these activities and we believe that controlled burning practices that simulate natural wild fires in the longleaf pine flatwoods is compatible and allowed under the Wilderness Act. Perhaps a controlled burning provision could be added to the bill.

Due to the close proximity of this area to Tallahassee, it being the closest wilderness proposal to an urban center, and the fact that it offers prime recreational opportunities and wildlife habitat, the Leon County Commission passed a resolution in 1979 supporting this proposed addition to the wilderness system.

Savannah - Touted by many as the most scenic vegetation of Florida coastal lowlands, the 1900-acre Savannah wilderness proposal has a greater variety of spectacular and rare plants than any other vegetation system in the region, according to noted botanist Dr. Andre Clewell. Located in Liberty County about 50 miles southwest of Tallahassee in the Apalachicola National Forest near the Apalachicola River, the savannahs are wet meadows carpeted with low growing grasses and sedges, intermixed at certain times of the year with myriads of wildflowers. Pitcher plants and other insectivores, many ground orchids as well as most native bog loving perennials flourish here.

The vegetation is a fire type, ignited by lightning under natural conditions. Surrounding roads now prevent the spread of such naturally occurring fires (estimated to have swept the area at one to three year intervals). In order to simulate the natural fire cycle, fires today are intentionally set by the Forest Service and presecribed burning should be a required element in future management plans if the area is accepted into the National Wilderness System.

These open savannahs contain true wilderness qualities, being hardly disturbed by man. The vast open vistas are broken only by stunted cypress stringers and and scattered longleaf pine along the fringe. Poor drainage, frequent fires and low phosphate have prevented forestation, but it is possible with modern technology to drain swamps and fertilize and convert savannah areas to pine plantations. Such development is occurring at alarming rates on other savannahs. This wilderness proposal, a top priority for wildflower lovers, is an opportune chance to protect a sizeable remnant of these great flowering meadows. The fact that the area contains very little marketable timber is good considering Liberty County's low tax base. In fact, the attention given to this area by designating it as wilderness would attract more visitors and thus would be beneficial to Liberty County's economy.

Senator **Wallop**. Thank you very much.

Mr. **Mott**. Senator Wallop, I believe we have the stipulations here and I don't see the reference that your staff appears to be making. The Environmental Protection Agency suggested apparently that specific areas be set aside in their comments on the stipulation, but we have no reason to believe that those have been followed.

Senator **Wallop**. Mr. Roady.

STATEMENT OF STEPHEN ROADY, MEMBER, SUWANNEE RIVER COALITION, GAINSVILLE, FLA.

Mr. **Roady**. Thank you, Mr. Chairman. You have been very patient this morning. I will very briefly summarize the remarks of the Suwannee River Coalition. They have already been submitted to you on behalf of Helen Hood, who is the chairman of the coalition. We are delighted to have this opportunity to be here today to support the State of Florida in opposing strip mining of phosphate in the Osceola National Forest. There are several reasons for that opposition.

First, the forest was originally set aside to protect the Suwannee River watershed. We agree with you, Mr. Chairman, with the remarks you made earlier that the authorizing legislation setting aside the forest should control any future use of the forest. And, of course, phosphate mining would be very much at odds with the reasons for which the forest was originally set aside, including the protection of the Suwannee River watershed. Therefore, that is our first reason for opposing the phosphate mining.

Second, as is currently constituted, the forest provides timber production benefits and recreation opportunities, both of which would be adversely impacted by the phosphate mining proposed by these companies.

Third, as has been made painfully clear to you this morning, technology of reclaimed forests and wetlands and other areas in the Osceola Forest simply does not exist at present. Thus, if the mining were to go forward on its current schedule, vast quantities of forest would be irreparably destroyed.

To state it simply, Mr. Chairman, we are here today seeking legislation from the Congress, because the Federal agencies who are charged with protecting the Osceola have failed to carry out that charge. Despite repeated assurances from the Department of Agriculture that the forest will be protected, the final stipulations of these phosphate mining leases contain absolutely no requirement that the hydrologic regime of the forest would be reestablished and it made no mention whatsoever to restore wildlife habitat.

Therefore in our view the final stipulations as published do not assure the effective sites will be reclaimed for timber production and of the resource uses and it is based on this problem and all of the other problems presented to you this morning that it is our contention that the valuable deposit determination simply cannot be made at this time.

Finally and briefly, with respect to the various legislative proposals that are pending in front of your committee, Mr. Chairman, the coalition has not singled out any one of the bills in preference to the others but would trust your wisdom to select the best and to prepare us a mechanism for compensation of the leased claims.

However, if you do choose H.R. 9, we believe that that bill should be amended so that the Congress must confirm a declaration by the President that a national emergency exists by a joint resolution within 120 calendar days.

I would just emphasize our primary concern and really the only action we urge you to take is to protect the Suwannee River by prohibiting phosphate mining in the Osceola Forest until such time as a national emergency is declared to exist.

Thank you very much.

[The prepared statement of Mr. Roady follows:]

Florida Audubon Society

Florida Chapter
of the Sierra Club

Florida Conservation
Foundation, Inc.

Florida Defenders
of the Environment

SUWANNEE RIVER COALITION
626 North Main Street
Gainesville, Florida 32601

Florida Federation
of Garden Clubs, Inc.

Florida Wildlife Federation

League of Women Voters
of Florida

The Georgia Conservancy

The Wilderness Society

IZAAK WALTON LEAGUE
FLORIDA CHAPTER

STATEMENT

Before The Subcommittee on Public Lands and Reserved Waters

Committee on Energy and Natural Resources

U. S. Senate

April 1, 1982

On behalf of its 24 member organizations, the Suwannee River Coalition is pleased to have this opportunity to support the position of the State of Florida presented by Governor Graham, Secretary Tschinkel, and State Senator Skinner - opposition to phosphate strip mining in the Osceola National Forest.

Since our founding in 1977 we have been opposed to the mining as a misuse of public land that was purchased to provide protection for an important component of the Suwannee River watershed. In addition, we are opposed to the destruction of this public land because it contributes significant resources to the local economy in terms of timber production and recreation opportunities.

The citizens represented by the Coalition believe that we have no further recourse but to ask Congress to prohibit mining in the Osceola. Our own Representatives and the House have responded to our plea, and now our two Senators are asking you to settle this long-standing issue. Although the State has done all in its power to prevent the mining, the ultimate decision must come from you, the United States Senate, because the federal agencies charged with protecting public lands for public benefit have abdicated their resposibilities in the Osceola.

John B. Crowell, Jr. Assistant Secretary of Agriculture, who presented the Administration's views on the House bill to prohibit mining, testified on October 22, 1981 that "We expect to have necessary lease stipulations developed by December of this year that will assure affected sites are reclaimed for timber production and other resource uses and that a necessary balance between uplands and wetlands is achieved."

The process for developing these leases has been closed to the public although not to the companies with lease claims. By tracking the various drafts of the stipulations which we could obtain only after they had become obsolete, accompanied by assurances that there would be no slime ponds on Forest land and that forested wetlands could be restored because of new technology, we watched helplessly as each version became weaker. In a December 18, 1981 letter to the Coalition, Mr. Crowell said "We ... share your interest in the hydrologic regime of the river basin, good water quality, the benefits of timber production, recreational opportunities, wildlife, open space and cultural values." Yet the final stipulations deleted re-establishment of the hydrologic regime, made no mention of restoration of wildlife habitat or native vegetation communities, and deleted a requirement for archeological surveys.

We contend that the final stipulations as published do not assure that affected sites will be reclaimed for timber production and other resource uses, and that therefore the valuable deposit determination cannot be made. Furthermore, the decision to substitute the Environmental Impact Statement of 1974 and the 1979 Supplement for the technical examination/environmental assessment report required in 43 CFR 3521 was made without public knowledge.

Add to these actions the directive from the Bureau of Land Management to its Eastern States Office to place a high priority on processing the leases, and you may understand why we believe that the Senate is our last recourse.

The Coalition has not singled out any one of the bills before you in preference to the others, but trusts your wisdom to select the best and fairest mechanism for compensation to the lease claimants. However, if you choose H.R. 9 for its array of alternatives, we believe that it should be amended so that Congress must confirm a declaration by the President that a national emergency exists, by joint resolution within 120 calendar days . Our primary concern, and the only action that we urge you to take, is to protect the Suwannee River by prohibiting phosphate mining in the Osceola National Forest until a national emergency exists.

Helen Hood

Helen Hood
Chairman

SUWANNEE RIVER COALITION
626 North Main Street
Gainesville, Florida 32601

January 1982

OSCEOLA NATIONAL FOREST

The State of Florida has rarely been so united as it is in opposition to proposed phosphate strip-mining in the Osceola National Forest. The entire Congressional delegation, the Governor and Cabinet, state and regional agencies, local governments, conservation groups, and countless private citizens have joined together to oppose mining of the Forest. It is the state's position that mining will have unacceptable adverse impacts on water quality and quantity, wetlands, fish and wildlife, recreation, timber and other environmental resources; that with the surplus of phosphate now being produced on private lands and proven reserves available for the future, it is unnecessary to mine the public lands of the Osceola; and that restoration of the unique resources and multiple use management of the Forest cannot be assured by present technology for clay waste handling and reclamation of wetlands and forested ecosystems.

During Congressional hearings on Representative Don Fuqua's bill to prohibit mining in the forest until there is a national need for the phosphate, testimony given for the Reagan Administration by John B. Crowell, Assistant Secretary for Natural Resources and Environment, U. S. Department of Agriculture, opposed the bill. Mr. Crowell stated that the Department had reviewed current reclamation technology used in Central Florida at a series of meetings with industry representatives, and that "Preliminary on the ground review of mining areas indicates that satisfactory soil conditions can be created" . . . and "Observations indicate that technology to establish shallow-rooted species can be further refined to create soil conditions satisfactory for tree growth, although we have not seen or tested such results."

Despite this and similar testimony from the companies with lease claims, the House Committee on Interior and Insular Affairs found in its report that:

> ". . . the preponderance of evidence indicates that mined lands could not be reclaimed and restored to the approximate pre-mining conditions and functions which are so highly valued. While recent testing of new reclamation and wetland restoration techniques hold considerable promise for the future, the ongoing testing and research is still in its infancy, and any decision to allow mining in the Osceola National Forest at this time would amount to using the National Forest as the 'guinea pig' for developing reclamation and restoration technology. The Committee believes that this is completely unacceptable . . .
>
> ". . . there does not appear to be any shortage of phosphate reserves in Florida or in the United States at this time . . .
>
> ". . . no national interest exists in developing the Osceola National Forest's phosphate reserves at this time . . .
>
> ". . . the high percentage of exports (59% of the phosphate rock sold or used in the U. S. in 1980) tends to refute any claims that the Osceola National Forest reserves need to be mined in the national interest at this time . . .
>
> ". . . that deferring mining will not deprive the nation of a resource that is in short supply at present. Rather, it will leave the reserves in place for future generations to tap if and when they are needed . . ."

Finally the Committee noted a letter from Governor Bob Graham, which made the additional observations that:

> . . . the effectiveness of reclamation techniques in Central Florida does not necessarily apply to reclamation efforts in North Florida where mineral resources, soils, and natural systems are different . . .
>
> . . . EPA's Region IV Office of EIS Review stated that "destruction of swampland, which is a considerable proportion of the lease area, should be viewed as a permanent loss"......
>
> . . . technology for clay waste disposal to replace present above-grade settling areas is still experimental. Such slime ponds generally occupy two-thirds of the area mined and remove it from use for 10-15 years, or 25-30 years if they are part of a recirculation water system, a common practice.

With the entire Florida delegation co-sponsoring the bill to prohibit mining in the Osceola, the House passed it on December 15. However, disregarding the highly publicized "states rights" policy of the Administration and Secretary of the Interior James Watt that the federal government will allow states to make resource decisions, the U. S. Forest Service and the Department of the Interior are pushing ahead as rapidly as possible to write lease stipulations so that leases can be issued. There has been no opportunity for public participation in the stipulations process. A copy of the draft stipulations obtained by Senator Hawkins' office and sent to the Coalition shows them to be very weak, providing for changes to be made at the request of either party, i.e. the Forest Service or the mining companies. Senator Hawkins and the Florida Department of Environmental Regulation criticized them but it is unknown at this writing whether their comments were considered. Requests for information on the state of the art of reclamation technology being provided by EPA experts to the decision-makers have not been answered.

In October the Senate leadership promised hearings on Senator Chiles' and Hawkins' original bills in February of this year. Senator Chiles has introduced the House bill in the Senate, but the Senate leadership is insisting on full-scale hearings and it is doubtful whether they will be scheduled before April. The leases could be issued before the new bill is considered.

In November the Governor and Cabinet adopted a Resolution which opposed the mining of the Forest, supports the Congressional legislation to prohibit mining, and authorizes appropriate state agencies "to pursue all administrative and judicial remedies available to prevent mining and to prevent use of state property, facilities or resources for any activity associated with mining in the Forest" in the event that the leases are issued.

The governing board of the Suwannee River Water Management District and the Suwannee River Resource Planning and Management Committee, made up of local elected officials and various interest groups in the Suwannee basin, noting the threat of adverse impacts to the River and the resources of the basin, passed resolutions opposing the mining. Several counties have passed resolutions. A number of local newspapers, as well as major papers all over the state, have had editorials opposing mining and have published letters of opposition. The Coalition, several of our member organizations acting individually because of the importance of the issue, and several national organizations testified against the mining.

N.B. Recently, the North Central Florida Regional Planning Council, with membership made up of local elected officials and citizens from 10 counties in the Suwannee basin also passed a resolution opposing the mining because of the adverse effects upon the Suwannee River and to the local economy. To date not even the phosphate industry organization, the Florida Phosphate Council, nor any other organization has supported issuance of the leases.

Views

Our opinion

A forest down the drain

Stipulations drawn up by the U.S. Forest Service to regulate phosphate mining in the Osceola National Forest will protect the forest about as effectively as a sieve holds water.

The 14 stipulations are supposed to serve as ground rules for mining companies which hold preference rights to leases in the Osceola.

Originally intended to protect the environment and endangered animals in the forest, the rules have been butchered in their route from the field to Washington, says U.S. Sen. Lawton Chiles.

Chiles is hot about the mining issue, along with the rest of the Florida Congressional crowd.

He says the Reagan administration is rushing to issue the mining leases before the Senate can act on legislation to ban strip mining in the forest.

The House passed that legislation in December, and the bill will go before the Senate soon. But Chiles says it might not be soon enough.

If the Department of Interior ramrods the stipulations through and issues the leases, there will be no stopping the mining of the forest.

The Forest Service has submitted the stipulations to the Interior Department's Bureau of Land Management for review. The rules can be accepted or modified by the Department. Then the four companies—which want to lease about a third of the forest—would have to prove that phosphate can be extracted economically in accordance to the stipulations.

It's not very comforting to know that the person who will review the lease stipulations is assistant secretary Garrey Carruthers, who in an earlier letter urged the Forest Service to hurry up with the stipulations, saying "industry is pressing me on this issue."

And it's not very comforting to read over the proposed stipulations, either. For instance, the rules say that the lessee shall return the mined land to is original condition (except for permanent lakes created by mining), shall restore vegetation and animal life (in approximate proportions), shall reclaim mined land promptly (as soon as practicable) and shall restock fish and wildlife (where natural restocking does not occur within a reasonable time).

What is "reasonable?" And what is "practicable?"

Chiles called the stipulations a "callous disregard for a public assett," and said they will open the way for mining in the forest.

"If allowed to be strip-mined for phosphate under these terms and conditions, it is likely the forest will never be returned to its premining condition," Chiles said in an analysis of the rules released this week.

We'll go one step farther. Damage caused by strip mining cannot be repaired, but merely patched up to form an environment totally dissimilar from the existing environment.

And the real Osceola—the one we know today—will go through the sieve and right down the drain.

Senator WALLOP. Thank you, gentlemen, very much. I think, subject to interpretation, but my interpretation of the stipulation two would tend to indicate just what I said was correct and No. 5 may expand on that slightly, but it is not worth argument here.

I appreciate the testimony that each of you bring today. I would hope that at some time or another that in all arguments people make about these things that we do not use Federal action or proposed Federal action as the only tool to take care of the large degree of State inaction or inadequate action or poor action, because there were several points during the testimony from the Florida officials and from yours in which you point out all of the other bad things that are taking place along private lands in Florida.

It seems to me there is a bifurcated obligation in Florida, not only to take action on what might happen on Federal lands but as well on their own. This housekeeping begins with the broom in the closet and I hope that perhaps you might carry some of that back down there. If we are going to be attacking one administration perhaps we ought to attack another one.

At any rate your testimony is heard and it will be included in the record in its entirety and I do believe we have developed most of the responses this morning.

With that, I appreciate my appreciation.

And I call the last witness Mr. Ed Wren, vice president, Southwest Forest Industries, Phoenix, Ariz. Mr. Wren, if I could impose upon you the same as the other witnesses to summarize.

STATEMENT OF EDWARD J. WREN, VICE PRESIDENT, SOUTHWEST FOREST INDUSTRIES, PHOENIX, ARIZ., ACCOMPANIED BY JOHN HALL, VICE PRESIDENT OF RESOURCES, NATIONAL FOREST PRODUCTS ASSOCIATION

Mr. WREN. Yes. Thank you once again, Mr. Chairman, for your patience. You are now going into 3 hours of this and I don't want to hold you here any longer. I will make my testimony very brief.

I have with me John Hall, who is vice president of resources with the National Forest Products Association.

As you will note from the beginning of my statement, I do not only represent Southwest. It has over 400,000 acres of private timberland, most of it in Florida, some in south Georgia, south Alabama. But we also are a company with extensive manufacturing operations in New Mexico, Arizona, Colorado, California, and Oregon where we are about 98 percent dependent on national forest timber to run those operations.

Florida is the only State where we have extensive timberland ownings of our own, so we have been very involved in this since the beginning. I am also representing as you notice the National Forest Products Association, the Southern Forest Products Association, and the Florida Forestry Association.

As you will note in my statement, the key statement I would like to make on behalf of the entire industry is that these particular bills are inadequate because they do not provide for a clear provision releasing those lands not recommended as wilderness from further review for wilderness study and therefore what I want to talk to you about today is the hope that the subcommittee and than the whole committee and the Senate will put in statutory national release language, because that is something that our industry and our company has been looking for for a long time.

As you know in Wyoming you have several forest products companies also dependent on national forest timber and it has now been 10 years since RARE I started and RARE II and from the beginning, sir, we have been looking forward to the final resolution of the entire roadless areas in the national forest and just like other groups on one side of the coin or the other, we may not be happy with the final outcome of the RARE II process relative to any of these States, but we hope that once it is finished with that somebody will release these lands and put in this national release language.

Technically, as my statement points out, the lands recommended for nonwilderness and RARE II are available for multiple use management, but I would tell you firsthand relative to the experience our company has had in all of these States that once the wilderness lands are designated, the rest of the lands, the multiple use lands, as soon as the forest in many cases goes about trying to make these available for many of the multiple use purposes, including timber harvesting, we find ourselves in court almost immediately and it is 5, 6, 7, 10, or 15 years before we can ever utilize those lands.

So, therefore, we really believe that the national release language is needed to take care of the 36 million acres for multiple use.

And that is our basic position, Mr. Chairman. I add my statement.

[The prepared statement of Mr. Wren follows:]

NATIONAL FOREST PRODUCTS ASSOCIATION
1619 Massachusetts Avenue, N. W., Washington, D. C. 20036
GOVERNMENT AFFAIRS

STATEMENT OF
EDWARD J. WREN
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS & RESERVED WATER,
SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES
ON
S. 1873 AND H.R. 9
APRIL 1, 1982

Mr. Chairman, members of the committee, I am Edward J. Wren, Vice President of Southwest Forest Industries. Our headquarters is in Phoenix, Arizona, and we have operations in 32 states. We are one of the largest landowners in Florida with 400,000 acres of commercial forest land. In addition to representing Southwest Forest Industries, I am testifying on behalf of the 31 federated forest products industry's associations and the individual companies that are members of the National Forest Products Association. NFPA represents more than 2,500 companies that are engaged in tree growing, wood products manufacturing and distribution in the United States and Canada. I am also testifying on behalf of the Southern Forest Products Association representing 53 companies in twelve southern states, including Florida.

I appreciate the opportunity to testify on H.R. 9 and S. 1873 which would designate approximately 39,600 acres of National Forest commercial forest lands as Wilderness. The statutory bills are inadequate because they do not provide for a clear provision releasing those lands not recommended as Wilderness from further review for Wilderness use. My testimony today will focus on the need for statutory national "release" language as a first step in resolving a question that is crucial to the forest industry and to every citizen: How much National Forest land is to be available for resource management?

Managing a forest is a long-range proposition. What you will be able to harvest 40 to 80 years from now depends on what you do today. The actions you take, or don't take, today will have consequences for generations still unborn.

The basic element in forest management is the land base. Forest managers must know how much land is available, and will continue to be available, for management purposes.

The aim of RARE II, the Forest Service's second Roadless Area Review and Evaluation, was to let Congress and the public settle the question as to which lands are to be available for general recreation and commodity uses and which for Wilderness, so that all 62 million acres of roadless land would not be tied up indefinitely simply because it might be potential Wilderness.

In 1979, eight years after the study of these lands began, the Carter Administration announced its recommendations for using the 62 million acres of roadless land: 15 million acres for Wilderness system; 36 million acres for non-Wilderness multiple uses; and 11 million acres to receive further study. The Administration sent the recommendations to Congress since only Congress can designate land as Wilderness.

Technically, the lands recommended for non-Wilderness in RARE II are available for multiple use management. But in reality, any decision the Forest Service makes about developing the land is likely to be met with appeals, litigation, and introduction of legislation to create additional Wilderness areas. Statutory release language is needed to give the Forest Service the direction it needs. Release of non-Wilderness lands would not preclude any future Congress from designating any of these lands as Wilderness.

As long as uncertainty remains about the use of these lands, the forest industry must realistically consider them as potential Wilderness. This affects investment decisions and the industry's ability to meet demand for wood products in the future.

So far, Congress has been implementing the RARE II decisions on a state-by-state basis. At first glance, this method appears to be a practical way to handle Wilderness designations because of the confusion and interests which must be accommodated in determining and settling local Wilderness boundaries. But the effects of additions to the Wilderness system need to be added up and viewed as a whole. This can be done by releasing the RARE II non-Wilderness lands as a first step.

National release language would reinforce the National Forest Management Act. NFMA cannot work well unless the basic land issue is resolved. RARE II could support NFMA, making it possible to plan multiple-use activities with the knowledge that the Wilderness option had been thoroughly considered on those lands specifically recommended for Wilderness.

Release of the non-Wilderness lands would allow planners to get on with their jobs without interruption every ten years.

Certainty about the land base and future timber supply is essential now for the Forest Service to plan multiple-use activities for the next 40 to 80 years. It is impossible for the Forest Service to do this with a land base that is continually slipping away.

Release language would not cut the citizens' right to be heard on the question of forest use. The RARE II study incorporated a comprehensive public-involvement process, as spelled out in the National Environmental Policy Act. The public involvement phase of RARE II allowed all citizens to be heard and to supply site-specific data on all roadless areas. It was the largest planning effort ever developed.

National release language would reinforce the RARE II final Environmental Impact Statement which is sound. The RARE II decision represents a base-line proposal Congress can use in considering Wilderness designations. That decision provides a reference point for public debate.

Congress should address the Wilderness question in a time frame that meets the needs of the country. But immediate release of the non-Wilderness lands is an essential first step to establish a land base on which resource use decisions can be made.

Mr. Chairman, the forest products industry is hopeful that an amendment to the Florida Wilderness Bill will be offered providing national release language. Such an amendment would clearly let the Forest Service know which lands are available for multiple use so it can get on with the job of managing the resources of the National Forests to the nation's benefit.

Senator Wallop. Thank you very much, Mr. Wren. I have a peculiar sort of ration to all manner of testimony that comes in front of the committee. It is my opinion, which is unrelated to events here today, but from living in Washington, there appears to be a time when everybody brings their problems and kind of mates with them. They breed from here and go on back to their country at a migrational point.

But the national release language and the national wilderness bill, following the environmental community and the national environmental community, are for one and not for the other, claiming that one is too complicated to be done on a national basis and the other is too simple to be done on a State-by-State basis.

That consistency I find a little strange in their position on this. My own position is that we ought to proceed on a State-by-State basis, to get our wilderness areas and release done. I think it ought to be prudent and with all diligence.

But I guess I feel rather protective of my State from both prospectives, would prefer to have Wyoming's wilderness bill, however it may be amended and its accompanying release language go through, but I am unwilling to trust our State to the necessary national compromise that goes along with such a bill.

So I have felt pretty strongly that we ought to go on a State-by-State basis in both. And/or I think that the chairman of this committee thinks differently and that there ought to be a national release bill.

That is what makes life here interesting.

Mr. Wren. Yes, sir. Mr. Chairman, I would only answer that I am aware of some of the provisions that you are looking at in your Wyoming bill and I think there was a, one of the gentlemen who preceded me made a statement to the effect that you would get from that relative to the California release language, the so-called California release language, that everybody had gotten together and agreed, set in concrete, a certain phraseology relative to release language that our industry had agreed with and everybody had agreed with. I know you would agree that that was a different Congress and a different situation and the Senate at the time and our industry has never, first of all, our industry did not agree as an industry.

There was one lawyer working for one group at that time, but I would only say to you that if you are a company like ours or you are a national forest manager, you need, you really need to do some planning into the future and I think the economic crisis that we have got right now only magnifies that.

We have 17 manufacturing mills in the Southwest and Pacific Northwest that are manufacturing either lumber or plywood and 10 of those are shut down completely right now. Four others are operating on a curtailed basis and throughout the country we only have three of them operating on a regular basis, two of which are hardwood mills, and you just cannot plan into the future with the kind of release language that there was in the California bill, in the New Mexico bill and I think the third bill, the Colorado bill.

It does not give you any way to plan into the future, whether you are a national forest manager or a company.

Senator WALLOP. I understand that position. I guess I somehow misspoke myself. I am not really saying that there be a national wilderness bill and a national release bill as well. This whole national withdrawal as opposed to a State-by-State withdrawal and that refers to one of the issues here today to finding more production or natural oil and gas on the wilderness lands.

Anyway, I assure you that it will be, if we don't do one thing, we will do another thing or even a third one is what we have been doing is nothing and that is worst of all. And I think it is really time to come to grips with the issue.

Mr. WREN. I don't know the finals of your Wyoming bill, but I understand you are looking at something a little more reasonable on the release side.

Senator WALLOP. We are looking at release and we are also considering a hard withdrawal in it and we feel very strongly about both principles. But it is something that will come. It is my understanding that the Agriculture Committee makes certain jurisdictions over the bills in here and the release language may be at issue in it.

So that process will go on. Anyway I thank you as I do those from both sides of the issue that have come here to present their testimony this morning. I find it interesting and stimulating as is the point of the hearings.

Thank you.

Mr. WREN. Thank you, Mr. Chairman.

Senator WALLOP. The committee stands adjourned.

[Whereupon, at 12 noon, the hearing was adjourned.]

APPENDIX

ADDITIONAL STATEMENTS AND COMMUNICATIONS SUBMITTED FOR THE RECORD

LAWTON CHILES
FLORIDA

COMMITTEES:
APPROPRIATIONS
BUDGET
GOVERNMENTAL AFFAIRS
SPECIAL COMMITTEE ON AGING
DEMOCRATIC STEERING COMMITTEE

United States Senate

April 1, 1982 1982 APR -5 AM 10:44

The Honorable Malcolm Wallop
Chairman
Senate Subcommittee on Public Lands
 and Reserved Water
United States Senate
Washington, D.C.

Dear Malcolm:

I want to thank you for holding the April 1 hearing on the question of phosphate mining in the Osceola National Forest in Florida. I appreciate your interest in this issue and am grateful as well for your careful attention to the testimony presented and your excellent questioning during the hearing.

I have been advised that during the hearing the Subcommittee heard testimony from those advocating that release language be included in any legislation reported by the Senate Committee on Florida's wilderness areas. Since I did not address the release question in my testimony, I wanted to be sure you were aware of my views in this regard.

The areas recommended for wilderness in H.R. 9 and S. 1873 are non-controversial and have passed the House of Representatives several times. Florida does have areas recommended for future planning, but the question of release has never been a problem in Florida. I hope it will not become one. I strongly support the proposed Florida wilderness areas and urge the Committee to adopt the recommendations in H.R. 9 and S. 1873 and not include suggested release language.

Thank you again for your interest in Florida's public land questions and with best wishes, I am

Most sincerely,

Lawton

LAWTON CHILES

LC/gvs

LAWTON CHILES
FLORIDA

COMMITTEES:
APPROPRIATIONS
BUDGET
GOVERNMENTAL AFFAIRS
SPECIAL COMMITTEE ON AGING
DEMOCRATIC STEERING COMMITTEE

United States Senate

HVV
TB

1982 MAY -6 PM 10:48

May 4, 1982

The Honorable Malcolm Wallop
Chairman
Senate Subcommittee on Public Lands
 and Reserved Water
U.S. Senate
Washington, D.C.

Dear Mr. Chairman:

On April 1 the Public Lands Subcommittee held a hearing on legislation to prohibit phosphate mining in the Osceola National Forest in Florida. During that hearing Administration officials and phosphate mining company representatives pointed to advances in reclamation technology which would enable strip mining in the Osceola without adverse long-term impacts.

On April 16 the Florida Phosphate Council presented the attached report at a seminar held in Bartow, Florida concerning the disposal of waste clays. This report concludes that the level of restoration technology has not reached the stage where restoration without long-term above grade storage of clay waste (slime ponds) can take place. I thought the Committee would be interested in reviewing this document as it contradicts the testimony presented to the Subcommittee by the companies seeking phosphate leases in the Osceola National Forest.

I look forward to working with you and members of your Committee in reaching a legislative solution to the controversy surrounding the pending lease applications for mining in the Osceola National Forest.

With kind regards, I am

Most sincerely,

Lawton Chiles
LAWTON CHILES

LC/gbr

Committee Note.--The report has been retained in Subcommittee files.

1982 APR 23 AM 11: 07

STATE OF FLORIDA
OFFICE OF GOVERNOR BOB GRAHAM

April 19, 1982

Honorable Malcolm Wallop, Chairman
Subcommittee on Public Lands and
Reserved Waters
Senate Committee on Energy and
Natural Resources
452 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Wallop:

The testimony of representatives of the phosphate industry is different in Tallahassee and in Washington. I have been greatly disturbed by this since returning from Washington where I testified April 1 to your Subcommittee on Public Lands and Reserved Waters in opposition to phosphate mining in the Osceola National Forest. Enclosed is the testimony in Tallahassee of a phosphate company attorney which differs from the testimony given by a representative of Monsanto in Washington on April 1 to the Subcommittee on Public Lands and Reserved Waters. The companies which want to mine the Osceola say the land and water can be put back as it was, while contradictory statements come from companies which are subject to the reality of State regulation. They say clay waste or slime ponds are necessary to phosphate mining and the land is changed for many years.

At the April 6 meeting of the Florida Cabinet and me, we reviewed conceptual mining plans of several companies. One of the conditions called for reduction or elimination of slime ponds when the technology to do so was proven to be technically and economically feasible. I inquired about that condition of Dr. Elton Gissendanner, Executive Director of our Department of Natural Resources, and Ms. Casey Gluckman, Director of the Division of Resource Management, which supervises reclamation. (In reading the Cabinet transcript, Mr. Smith is Florida's Attorney General Jim Smith.)

Honorable Malcolm Wallop
Page 2

The testimony of Mr. Ward, attorney for Brewster Phosphate Company, clearly shows the contradiction which is so frustrating in attempting to protect the Osceola National Forest. The testimony also shows the need for passage of House Resolution 9 to bar phosphate mining from the Osceola National Forest.

Your consideration of our concerns will be appreciated.

With kind regards,

Sincerely,

Bob Graham

Governor

BG/tlg

Enclosure

cc: Honorable Lawton Chiles
Honorable Don Fuqua
Honorable Paula Hawkins

State of Florida

Department of State

I, George Firestone, Secretary of the State of Florida, do hereby certify that to the best of my knowledge the attached is a true and correct copy of the transcription of a portion of a recorded meeting of THE DEPARTMENT OF NATURAL RESOURCES, held on April 6, 1982, as shown by the records of this office.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 13th **day of** April, 1982

George Firestone
Secretary of State

CER 101 Rev. 12-80

THE FLORIDA CABINET

Present:
Governor Bob Graham
Secretary of State George Firestone
Attorney General Jim Smith
Comptroller Gerald Lewis
Treasurer Bill Gunter
Commissioner of Education Ralph D. Turlington
Commissioner of Agriculture Doyle Conner

DEPARTMENT OF NATURAL RESOURCES

GOVERNOR GRAHAM: Provided that the technology has been proven technically feasible; as if that's an open question. Is that or is that not an open question?

DR. GISSENDANNER: I think it's an open question. As I understand it, in talking with the people who we're dealing with; it is my understanding it is still open whether it's technically feasible or not.

MS. GLUCKMAN: Governor, these in Item number 2, the settling ponds 4, 5, 6 and 7 are active or actively under construction. And what we have done is divided those, as mentioned before, from those that are yet proposed. In order to assure flexibility to keep up with the State of the Art, those items, those settling ponds identified in 2, we leave open through the language in number 2. The Department's authority to come back and say to them, okay, we now know for sure it works. It's not experimental anymore. We've got the data. Now, you have got to stop all work on traditional areas and change to this proven technology. In other words even with active areas we've tried to leave the door open.

On condition 3, settling pond 9, is a settling pond that is entirely proposed. And in that particular instance we are telling them, you shall do sand clay mix or the other type of equivalent technology.

So, again it's the distinction between the activity going on, but even where they're active we tried to leave the door open to come back and not simply say if it's traditional you can use it forever.

GOVERNOR GRAHAM: I guess one of the things that concerns me is that you get different stories. For instance; this same applicant in the different corporate sense has testified before Congress relative to mining the Osceola National Forest that there's no question.

This statement is sand/clay land rebuilding and reclamation, was explained to the forest service personnel and they reviewed current in process sand/clay land reclamation. Thus sand/clay reclamation is very much alive. It is proven extremely effective and has not been abandoned in any sense.

They testified before Congress that sand/clay is a means which has reached such a state of perfection that it will allow the Osceola National Forest to be mined without any environmental threat and yet here we're talking about in the middle of an active phosphate area, raising questions as to whether the technology is technically feasible. I mean if it's feasible in the Osceola National Forest, why isn't it feasible in this project?

MS. GLUCKMAN: I think Governor, it would be more appropriate to let me ask the industry to respond to that question.

MR. WARD: Governor, I'm David Ward, Jr., representing Brewster Phosphates and as you prefaced your remark, there is an indirect corporate relationship between that party which testified in Congress, from what I understand, and the Brewster Phosphate's ownership.

And I think that to answer your question directly; I don't think that that statement says that the sand/clay mix can do away completely under the present State of the Art with the use of clay settling areas.

And what is proposed in this special application is that those existing clay settling areas are those under construction at the present time, have applied to them.

If the technology does present itself new, such as; flocculants, sand/clay or what have you, techniques to reduce the above grade settling areas. But I don't think that it's being proposed, that clay settling areas can be done away with under the State of Art today in toto.

GOVERNOR GRAHAM: Well, if you review the testimony that has been given before Congress relative to the Osceola National Forest, the impression that the United States Department of Agriculture representative has is that we've reached the point of perfection in the technology that will allow for reclamation of that forest in its current form, through clay/sand techniques.

MR. WARD: Well, I'm not really familiar with the impression that, you know, the Secretary may have.

GOVERNOR GRAHAM: Well, here's what the representative of the U.S. Department of Agriculture testified to Congress on April of this year. It said, "*In the last few months there have been meetings with industry representatives to review newly developed reclamation technology which has been used in Central Florida to reclaim phosphate mining areas.*

"*On the ground review of mining areas indicates that satisfactory soil conditions can be created. Application of this developed technology in the last several years has been satisfactory for establishment of shallowed rooted vegetation to meet reclamation requirements.*

"*Indications are strong that this technology can be extended*

---

to establish satisfactory tree growth, although there's not been enough time since the development of technology to test such results.

"Forest Service have developed lease stipulations which will assure affected sites or reclaim for timber production and other resource of uses that are a necessary balance between uplands and wetlands is achieved."

Is that the same technology that we're going to determine whether it's technologically feasible in Hillsborough County?

MR. WARD: Governor, I certainly don't think that I'm in a position nor is Brewster Phosphates in a position to make representations or agreements or disagreements with what the Secretary may understand to be the case in that testimony.

MR. SMITH: Is it not true that we have some experiments that are on-going now on that area?

MR. WARD: On the sand/clay? Yes, abundantly so. The industry—

MR. SMITH: Okay, as I hear the Governor's comments I don't think; I have not read that, but as I hear the comments I don't think what was said is inconsistent with the experimentation that we have on-going now within the industry.

As a matter of fact, Governor, I haven't seen that, but I think you said, that it said, that not enough time has gone by yet to determine whether or not it really will be feasible.

MR. WARD: Well, as a matter of fact—

MR. SMITH: I don't think we're in an inconsistent position in that regard.

MR. WARD: —well, at the Brewster Phosphate sites, which is the subject of this special application, which is the mine in Hillsborough County. There have been sand/clay reclamation sites which have been approved prior to their construction and following the reclamation they've been released by DNR.

So that, you know, sand/clay reclamation is an accomplished fact. I don't think the State of the Art is such that you can say that a mine in toto can go sand/clay without the use of settling areas.

Now, I think that testimony before Congress, I guess, could be subject to many interpretations. I did not understand that there was expressly stated there that clay settling areas would be done away with entirely.

GOVERNOR GRAHAM: Well, here's what the representative of Monsanto said on the same subject; "*by mixing the sand and clay components of the mining operation, firm consolidated fertile soil can be established that will eliminate the clay slime settling ponds that were common in earlier operations.*

"Thus revegetation, including trees and other plants would quickly commence. The topography could easily and inexpensively be tailored to produce habitat suitable for swamps, species and the dry land species by simply adjusting the elevation above or below the water table."

MR. WARD: Well, let me make clear that Brewster has no relationship whatsoever to Monsanto. To my knowledge Monsanto is not mining phosphate anywhere in Florida. And where they may get their knowledge and experience to make that representation, I'm entirely unfamiliar with.

GOVERNOR GRAHAM: You wouldn't, based on your experience, you would not concur that that is an accurate statement of the current conditions of reclamation in Florida?

MR. WARD: From what I'm advised by the industry it's not the State of the Art, that the clay settling areas can be done away with now.

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1982 MAY -6 AM 5: 30

May 3, 1982

REPLY TO: Orlando, FL

Senator Malcom Wallop, Chairman
Public Lands & Reserved Waters Subcommittee
of the Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

This letter is written on behalf of our client, Global Exploration and Development Corp., in response to a telephone request by Ms. Terri Sneider to Mr. George Brooks, the sole employee and owner of Global. Ms. Sneider, of your staff, has indicated that you would like comments from Global regarding how values might be determined for the exchange of rights and benefits described in H.R. 9. We appreciate the opportunity to address this question.

We must avoid implying that we favor one method of evaluation over another while there remains a possibility that we could be facing a government attorney in litigation in which the very question of how best to evaluate the rights would be tested. In that event we would, of necessity, argue for methods of evaluation which result in much higher compensation to the companies than the method we believe is reflected in H.R. 9. While we reserve the right to argue for the evaluation of lost profits, or any other methods in litigation, we believe that within the context of a legislative solution the method of evaluation in H.R. 9 is not unreasonable.

As we understand this method, the USGS will determine our tonnage (we have numbers anywhere from 17,400,000 tons to 23,680,000 tons discussed in USGS; therefore one could assume for purposes of this discussion 20,000,000 tons). We would then review the government's specifications for environmental requirements (which we have already reviewed), review the market for phosphate past, present and projected, and considering the cost to get the phosphate out (including all reclamation, etc.)

versus market values of phosphate ready to ship, we would then advise the agencies of Interior what we believe the value of the rock in the ground to be. Presumably, Interior would use its experts on mining and markets and respond with their best opinion of the value of the rock in the ground. From those opinions we would negotiate to determine the replacement cost of the phosphate as described in H.R. 9. As we discussed by phone, comparable sales in recent years have run from $1.50 to $3.50 per ton. These prices per ton are, of course, arrived at by the bidder after the bidder has considered all factors of cost versus sales prices of mined phosphate.

Thus, the equation called for by H.R. 9 would appear to be 20,000,000 X $x/ton. This is for illustration only, the actual tonnage and price per ton would be expected to vary within the parameters described above.

We have heard the comment that H.R. 9 is too open-ended as to compensation. We do not understand it to be so. We have heard that someone has suggested possible projections of $800,000,000 to $900,000,000 of values in credits, exchanges or cash compensation in this bill. Such values may be accurate as to lost profits, but H.R. 9 does not provide for an evaluation of lost profits.

We believe that the total values using the H.R. 9 method will be somewhere around $180,000,000 to $270,000,000 for all four companies, which the companies, for a number of reasons, would need to spread out over perhaps 10 years. On the credits it is unlikely that they could be used in less than 10 years; tax considerations also would cause a spreading of the values to interest the companies.

Very truly yours,

Elmo Hoffman

Elmo R. Hoffman

ERH:jlj
cc: Ms. Terri Sneider
George Brooks

TESTIMONY

of

HONORABLE STEVE PAJCIC
FLORIDA STATE REPRESENTATIVE

DURING THE PREVIOUS DECADE, THE STATE OF FLORIDA GREW AT THE SECOND FASTEST RATE IN THE NATION -- 43.5%. NO OTHER STATE INCREASED ITS POPULATION IN TERMS OF NUMBERS, NEARLY 3 MILLION (2.95 million) PERSONS, AS FLORIDA. FLORIDA WILL HAVE FOUR ADDITIONAL MEMBERS IN ITS CONGRESSIONAL DELEGATION NEXT YEAR AS A RESULT OF THIS GROWTH.

IN THE YEAR FOLLOWING THE 1980 CENSUS, FROM APRIL 1, 1980 TO APRIL 1, 1981, FLORIDA'S POPULATION GREW AN ADDITIONAL 360,000 PERSONS (U. S. Census Bureau). GROWTH THROUGHOUT THE 1980's IS EXPECTED TO CONTINUE AT LEVELS NEAR THIS RATE.

IN FLORIDA, WE HAVE ENCOURAGED GROWTH. BUT AT THE SAME TIME, WE HAVE SOUGHT TO STRIKE A BALANCE BETWEEN THAT GROWTH AND THOSE THINGS WHICH ARE IRREPLACABLE, SUCH AS OUR WILDLIFE, OUR BEACHES, UNDEVELOPED LAND, AND OUR STREAMS, LAKES AND OTHER SOURCES OF FRESH WATER.

WATER IS WITHOUT A DOUBT OUR MOST PRECIOUS RESOURCE. OUR UNDERGROUND AQUIFER IS UNDER CONSTANT PRESSURE FROM AGRICULTURAL, COMMERCIAL AND PRIVATE NEEDS.

LAST YEAR, THE GOVERNOR AND LEGISLATURE IN FLORIDA RECOGNIZED THE NEED TO PRESERVE THIS RESOURCE AND MAINTAIN ADEQUATE NATURAL DRAINAGE AND FILTRATION SYSTEMS BY PASSING THE SAVE OUR RIVERS LEGISLATION WHICH HAS RECEIVED NATIONAL ATTENTION. THIS LEGISLATION INCREASED TAXES ON REAL ESTATE TRANSACTIONS TO BE PUT INTO A TRUST FUND TO PURCHASE WET LANDS AND OTHER LANDS CRUCIAL TO MAINTAINING ADEQUATE AND UNPOLLUTED WATER SUPPLIES IN OUR STATE'S RIVERS.

GENTLEMEN, AS YOU KNOW, MANY CANDIDATES WERE SWEPT INTO OFFICE IN 1980 ON A NO NEW TAXES PLATFORM. HOWEVER, THIS LEGISLATION, WHICH INCREASED TAXES, WAS PASSED WITH TREMENDOUS PUBLIC SUPPORT AND OVERWHELMINGLY IN BOTH HOUSES OF THE FLORIDA LEGISLATURE. AS PRIME SPONSOR OF THE BILL IN THE HOUSE OF REPRESENTATIVES, I HAD THE OPPORTUNITY TO TRAVEL TO ALL PARTS OF THE STATE SEEKING SUPPORT FOR THE TAX. MY TASK WAS AN EASY ONE BECAUSE THE PEOPLE OF FLORIDA RECOGNIZED THE NEED TO PRESERVE THIS RESOURCE.

STRIP MINING IN THE OSCEOLA NATIONAL FOREST WILL SEVERELY UNDERMINE THE EFFORTS WE HAVE MADE IN FLORIDA TO ENSURE ADEQUATE WATER SUPPLIES FOR OUR CITIZENS. THE WETLANDS WITHIN THE FOREST ARE A VITAL SOURCE OF DRAINAGE TO MANY CREEKS AND STREAMS BOTH INSIDE AND OUTSIDE OF THE FOREST WHICH FLOW INTO THE SUWANNEE RIVER. THESE STREAMS ARE CRUCIAL TO THE LIVLIHOOD OF THE RIVER. STUDIES HAVE INDICATED THAT STRIP MINING FOR PHOSPHATES WILL LOWER SEVERELY BOTH THE AMOUNT AND QUALITY OF WATER FLOWING INTO THE RIVER.

THE MINING PROCESS OF DEWATERING, IN ADDITION TO THE TREMENDOUS AMOUNTS OF WATER REQUIRED FOR MINING ITSELF, WILL POSE A SEVERE THREAT TO GROUND WATER SUPPLIES IN THE AREA WHICH HUNDREDS OF THOUSANDS OF PEOPLE IN THE AREA USE. THIS MINING WILL ALSO REDUCE THE BASE FLOW OF THE SUWANNEE RIVER. ADDITIONALLY, THE FLOW OF EFFLUENT TO STREAMS WILL BE GREATLY INCREASED WHICH WILL CAUSE STREAMBANK AND VEGETATION EROSION WHICH IS CRUCIAL TO THE FILTRATION PROCESSES OF THE REGION.

THE SUWANNEE RIVER IS TRULY A NATIONAL TREASURE THAT SHOULD NOT BE DESTROYED TO OBTAIN A RESOURCE WHICH IS UNNEEDED AT THIS TIME. MARKET CONDITIONS DO NOT JUSTIFY INCREASING PHOSPHATE PRODUCTION AS THERE IS CURRENTLY A WORLD WIDE GLUT OF THE MINERAL. THE LEGISLATION BEFORE YOU WILL ENSURE THAT THE SUWANNEE RIVER WILL SURVIVE FOR THIS AND FUTURE GENERATIONS TO ENJOY AS WILL AS ENSURE A RATIONAL MEANS OF OBTAINING THE PHOSPHATE AND OTHER RESOURCES THAT ARE THERE AND MIGHT ONE DAY BE NEEDED.

Monsanto

Monsanto Company
1101 17th Street, N.W.
Washington, D.C. 20036
Phone: (202) 452-8880

1982 APR 26 AM 3 23

April 23, 1982

Senator Malcom Wallop, Chairman
Public Lands & Reserved Waters Subcommittee
of the Energy and Natural Resources Committee
United States Senate
Washington, D. C. 20510

Dear Senator Wallop:

You indicated that you would appreciate more information on the procedures to be used in determining the value of the Osceola National Forest phosphate deposits under HR-9. As you know, the legislation currently requires the value to be determined using a replacement cost approach.

The replacement cost concept for determining the value of the Osceola properties is the simplest, most straightforward and fairest approach. This method seeks only to award just compensation for leasehold rights to a company which is determined to have been entitled to receive a lease. This compensation would represent the value of the phosphate rock in the ground (no manufacturing value added) and would permit the owner of the leasehold rights to replace the mineral deposit which the legislation would take from him. It is the method least subject to bias and misunderstanding since the awards would be determined on the basis of actual arm's length sales of similar properties with any dispute decided by an impartial arbitration process, or alternatively as Monsanto Company has suggested, by a more appropriate, simpler and more objective appraisal procedure.

While the legislation does not state all of the procedural steps involved in determining replacement value, Monsanto expects the value to be determined in the following manner:

1. DOI and the rights holders would first gather information on recent sales of phosphate rock in the ground in the eastern United States on a $/ton basis. Several such sales have occurred. As recently as April 1981, TVA (a governmental agency) sold a large tonnage of phosphate rock in the ground at oral auction for a price of about $3.00 per ton.

2. The values of the Osceola phosphate rock would be equated on the base values determined in Step 1 by making adjustments for relevant differences such as the phosphate content, the physical situation, and

reclamation needs of the Osceola tract as compared to the base properties. The phosphate content, tonnage and character of the Osceola deposits have all been independently determined by U.S.G.S. analysis of the drilling performed on the Osceola in the 1960's.

3. The adjusted value in \$/ton of the phosphate rock in the ground on the Osceola would then be multiplied by the tons of phosphate rock which have been determined by the U.S.G.S. to be existant in a given company's holdings.

   In Monsanto's case the U.S.G.S. has determined that its tracts contain 31 million tons of good grade phosphate rock. Therefore the calculation would be:

   31,000,000 tons x Y\$/ton = value

   It is clear that this method is quite simple in that it is performed entirely on the basis of current dollars. No consideration is given to past expenditures, profits lost due to the unfair delay in issuing the leases, or to any speculative estimation of future profit. The evaluation is entirely on the basis of what the company would have to pay for an equivalent deposit of phosphate rock in the eastern United States to replace the deposit which the Congress is taking from the company.

If the credit option were selected, Monsanto visualizes the credits would occur as follows:

1. No credits would be taken prior to 1984. (This takes into consideration a reasonable time schedule for legislation passage and valuation procedures to be completed.)

2. Monsanto Company's federal royalties currently paid annually to the federal government are not sufficient to enable it to fully utilize the credits generated by HR-9 in the near future. Monsanto currently expects that it would take in excess of 10 years for it to fully apply the credits against its royalty payments. Of course, if the legislation is amended as Monsanto suggested, to permit credit to be taken only for the federal portion of these royalties, then that time period would be extended.

3. If the credit were to be applied to bonus bids (competitive bids) for new leases and the legislation is amended as Monsanto suggested, then only the federal portion would be taken at whatever rate those bids dictate.

4. In any case, Monsanto expects it would take a considerable period of years to exhaust the credit.

We hope this explanation clarifies the simplicity and fairness of the replacement cost approach to valuation of the deposits which is contained in HR-9. If you have any further questions, please feel free to contact me.

Very truly yours,

Robert L. Harness
Director, Legislative Affairs

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

ENERGY AND MINERALS
DIVISION

May 24, 1982

B-207450

The Honorable Jesse Helms
Chairman, Committee on Agriculture,
Nutrition and Forestry
United States Senate

Dear Mr. Chairman:

Subject: Potential Cost of Purchasing or Exchanging Phosphate Mining Lease Rights in Florida's Osceola National Forest (GAO/EMD-82-85)

In your letter of April 2, 1982, you requested the General Accounting Office (GAO) to (1) study the potential cost of purchasing or exchanging preference right leases for phosphate mining in the Osceola National Forest, including an evaluation of the technical and cost information already developed in this regard, and (2) comment on procedures that should be followed by the Department of the Interior and the companies involved in assuring that fair market value is properly determined.

As you are aware, proposed legislation, S. 1873 and H.R. 9, both provide for the designation of wilderness in the Osceola National Forest in the State of Florida. The bills also provide for the compensation of several companies that have applications for preferential lease rights for mining phosphates within the boundaries of the proposed wilderness areas.

Because of the short time frame involved in responding to your request and the Committee's urgent need for this material, we did not obtain formal agency comments. Verbal views of some agency officials were obtained and are presented in the text of the report where appropriate. Their remarks do not, however, represent the official position of their agency.

As outlined during our prior briefing of your staff on April 26, 1982, the intent of this letter is to summarize our findings.

—First, conflicts and deficiencies in existing technical and cost information provide an insufficient basis for determining the value of the phosphate deposits. In this regard, insufficient geological information has been collected and no field verification has been made by the Department of the Interior of the drilling data submitted by the companies.

--Second, the administrative process to issue preference right leases has not yet been completed. This makes determination of compensation premature. At present, phosphate deposits within the Osceola National Forest remain the property of the Government. Further, our evaluation raises questions regarding mining profitability, which, in turn, raises questions as to the companies' entitlement to preference right leases.

--Third, procedures to be followed in proper determination of fair market value should, at a minimum, include (1) additional drilling and field verification of available drilling data, (2) the cost of capital in the calculation of operation and production costs, and (3) determining the commercial value of the deposits.

During our review, we gathered data and conducted interviews with officials in the Bureau of Mines (BOM), U.S. Geological Survey (USGS), Minerals Management Service (MMS), and the Bureau of Land Management (BLM) within the Department of the Interior; and the Forest Service within the Department of Agriculture. Our review also included telephone contacts with company and Florida State officials. The short time frame involved in responding to your request, however, precluded indepth analysis and verification of agency-supplied data.

Our review was performed in accordance with GAO's current "Standards for Audit of Government Organizations, Programs, Activities and Functions." A more detailed discussion of our findings follows.

CONFLICTS AND DEFICIENCIES IN EXISTING TECHNICAL AND COST INFORMATION PROVIDE AN INSUFFICIENT BASIS FOR DETERMINING THE VALUE OF THE PHOSPHATE DEPOSITS

Among the most important factors in determining recoverable phosphate rock are (1) size and quality of resource, (2) technological feasibility of recovery, (3) potential mining and process losses, and (4) economics in terms of estimated operating and production costs. We found that agency estimates of some of these factors vary widely. This raises serious questions with regard to reliability of available information for determining the value of the Osceola phosphate deposits.

Varied technical information exists on phosphate deposit estimates

Varying estimates of total phosphate deposits in the Osceola National Forest were obtained from the BOM Minerals Availability System (MAS), MMS, BLM, and the BOM Commodity Specialist (COM). Information that was provided to us represented estimates at various stages of the phosphate mining and processing cycle which ranged from the amounts of matrix 1/ all the way to the quantity of the final phosphate product.

To obtain comparable data, we applied standard engineering calculation procedures to the above estimates to compile the following table:

		Short tons of phosphate		
Source	MATRIX	Product in ground	Mineable product	Final product
MMS	Unknown	a/101,750,000	86,487,500	73,514,400
BOM (MAS)	a/648,000,000	93,364,000	79,359,000	a/67,455,000
BOM (Com.)	Unknown	121,800,000	103,530,000	a/88,000,000
BLM	Unknown	a/120,000,000	102,000,000	86,700,000

a/These were the estimates provided by these agencies. Other values were calculated by GAO to present a total table.

1/The matrix is the total quantity of the mix of phosphate and other matter in the ground.

Limited drill data and lack of Government verification

Current geological data on the Osceola phosphates are limited to exploratory drilling by four companies. These data have not been subjected to field verification by the Government. Ordinarily, such data are sufficient for deciding lease issuance. However, in our opinion, serious questions are raised regarding the adequacy or verification of such data for determining the value of the deposit for purposes of sale or exchange.

Each company submitted a different pattern of drilling, with drill densities ranging from 1 hole per 30 acres to 1 hole per 70 acres. Government verification of these holes, however, is presently limited to examination of lab forms submitted by the four companies. No Government field verification of this information or examination of the actual samples submitted to the lab has been made. In fact, lab deposit samples have since been disposed of.

It is also significant to note that current industry practice calls for densities of 1 drill hole per 40 acres for exploration, 1 drill hole per 10 acres for delineation of reserves, and 1 drill hole per 2.5 acres prior to mining. A corporation that is presently mining the same mineral deposit adjacent to the Osceola National Forest drill 1 hole per 2.5 acres prior to mining. Based on these facts, we believe additional drilling and verification, at minimum, is necessary for determining the value of the Osceola phosphate deposits prior to any sale or exchange.

Conflicting drilling information on quantity and quality of phosphate

Conflicting drilling data on the quality and quantity of the Osceola phosphate deposits raise questions as to whether a reliable estimate of economic value can be determined and also suggests the need for more drilling and verification. The Environmental Impact Statement (EIS) completed June 27, 1974, by BLM for the Osceola National Forest contained a description of the size and quality of the phosphate deposit. However, late in 1974, in conjunction with a study of the effects of mining on the aquifer in the Osceola National Forest, 10 holes were drilled by the Government in areas referred to by the EIS as the centers of the ore body. Analysis of these core samples, which are the only samples still available for examination, was performed by a private contractor for USGS and indicated a significantly lower quality of phosphates than reported in the EIS. The contractor's analysis also indicates that the amount of the phosphates in the deposit may be considerably less than originally estimated.

DETERMINATION OF RIGHTS TO A LEASE FOR THE APPLICANTS IS NECESSARY PRIOR TO DECIDING TO PURCHASE THOSE RIGHTS

At this time, there is clearly no way to adequately determine a fair market value basis for decisionmaking on lease issuance, much less for purchase or exchange, until the Department of the Interior completes its evaluation of the applicants' "final showing." [1] Interior's evaluation, which is scheduled later this year, will determine whether the companies (1) have discovered a valuable deposit and (2) are able to profitably mine the deposit.

In April 1982, MMS and BOM (MAS) provided us with an estimate of about $25/short ton as the cost of producing a ton of phosphates in the Osceola National Forest. Our discussion of these cost figures with MMS and BOM (MAS) showed that they were derived independently of each other and had a difference of only 3 cents per short ton. However, our evaluation indicated that their estimates did not include the cost of capital, an important item at the current interest rates in today's economy. Our calculations, including the present cost of capital, suggest that mining of phosphates in the Osceola by these companies could be unprofitable. This raises questions regarding mining profitability, which, in turn, raises questions as to the companies' entitlement to preference right leases.

PROBLEMS WITH EXISTING CALCULATIONS OF COMPENSATION

While no official Government estimate has been made, BOM's Commodity Specialist stated that the costs to compensate the companies for the Osceola phosphate mining lease rights could range from as low as $129 million to over $1 billion. In an April 1982 letter, the BOM Commodity Specialist calculated potential compensation for the Senate Committee on Energy and Natural Resources. He recommended that the Government purchase the product in the ground in a similar way as other phosphate transactions have taken place among many mining companies. This would be at a price between $1.25 and $3 per short ton of mineable product. Using these cost estimates and the Commodity Specialist's estimate of total mineable product, the preference lease right purchase cost could range between $129 million and $311 million. Telephone discussions with officials of two of the four companies involved indicate that the companies might accept a Government offer in the higher portion of this range.

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[1] The final showing should support the fact that a company can produce a commercial product at a profit, considering the costs of production, capital, and reclamation.

The BOM Commodity Specialist also suggested to the Senate Energy and Natural Resources Committee that, in addition to preference lease right purchase cost, a legal settlement on opportunity costs of mining lost over prior years could range as high as $788 million. This would make total possible compensation in excess of $1 billion. This assumes an annual production rate of 4 million short tons, net profits after taxes ranging between $0.29 and $9.65 per ton, and triple damages awarded by the courts since 1969. However, such assumptions may not be valid, considering company application for all 51,826 acres were not filed until 1972. In addition, it would take about 6 years to build plant facilities and comply with routine regulatory requirements for environmental requirements, etc., which probably would have allowed potential mining to begin in 1980.

MINIMUM PROCEDURES TO BE FOLLOWED IN ASSURING PROPER DETERMINATION OF FAIR MARKET VALUE

There is, of course, no reason to consider cost of compensation until it has been determined that the applicants are entitled to a lease. Therefore, the potential cost of compensating holders of preference right lease applications in the Osceola National Forest should not be determined without additional geological data and verification of available information as well as clear determination of mining profitability and company ownership of preference rights to mine.

At a minimum, the procedures to be followed by the Interior Department to determine fair market value or compensation cost should include:

—Additional drilling and field verification of available drilling data.

—Determining commercial value of the deposits.

—Assuring that the cost of capital is included in the calculation of operation and production costs.

CONCLUSION

Proposed legislation provides for compensation of the four companies applying for preferential mining lease rights in Florida's Osceola National Forest. However, lease entitlement must be clearly established before it is proper to consider either lease issuance or compensating the four companies for the fair market value of their lease rights. At present, this lease entitlement, which is dependent upon determination of mining profitability, has not been established by the Department of the Interior.

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If we can be of any further assistance, please let us know.

Sincerely yours,

J. Dexter Peach
Director

BOB ODOM
Commissioner of Agriculture

MAY 25 1982

May 20, 1982

ENERGY AND NATURAL RESOURCES
RECEIVED
MAY 26 1982
WASHINGTON, D.C. 20510

Honorable James McClure, Chairman
Energy and Natural Resources Committee
United States Senator
Senate Office Building
Washington, D. C. 20510

Dear Mr. McClure:

The Phosphate Mining on the Osceola National Forest in Northeast Florida is a very disruptive issue to the progressive and compatible development of natural resources and agricultural needs for phosphate.

Studies have proven that granting preferential leases for the mining of phosphate at the present time would be a mistake. It would exploit a mineral which is in adequate supply. The mining would also permanently impair two of our most important natural resources, our forests and waters.

It is my understanding that the United States Senate Committee on Energy and Natural Resources, of which you are a member, is considering appropriate legislation to prohibit mining in the forest.

As Commissioner of Agriculture, for the State of Louisiana, I join my colleagues in respectfully requesting your assistance in the development of a National Policy to emphasize the need to conserve our diminishing mineral resources and protect our public resources. This action benefits both over the long run.

Your favorable consideration of this request will be sincerely appreciated.

Respectfully yours,

Bob Odom

Bob Odom
Commissioner

BO:ADP;mdw

Louisiana Department of Agriculture, P. O. Box 44302, Baton Rouge, Louisiana 70804

THE UNIVERSITY of FLORIDA
STUDENT CHAPTER
OF
THE WILDLIFE SOCIETY

Newins-Ziegler Hall
University of Florida
Institute of Food and Agricultural Sciences
Gainesville, FL 32611

-----A RESOLUTION-----

IN OPPOSITION TO ISSUANCE OF LEASES BY THE DEPARTMENT OF THE INTERIOR FOR THE STRIP MINING OF A PORTION OF THE OSCEOLA NATIONAL FOREST IN FLORIDA.

WHEREAS, the Osceola National Forest is one of only three major national forests in Florida and was originally established to restrict significant development and alteration of the landscape and to provide a variety of longterm recreational benefits for society,

AND

WHEREAS, the Osceola National Forest provides a large tract of relatively undisturbed habitat for a variety of endangered and/or threatened wildlife species, including red-cockaded woodpeckers, bald eagles, and black bears,

AND

WHEREAS, the Osceola National Forest has been proposed for mining leases for phosphate deposits which would significantly degrade a portion of the Forest as we know it for wildlife habitat and with minimal prospects for full restoration,

THEREFORE, BE IT RESOLVED THAT, the Florida Student Chapter of The Wildlife Society opposes the granting of leases for the purpose of strip mining for phosphate deposits in the Osceola National Forest of Florida.

cc: Florida delegation of Senators and Representatives.

KERR-McGEE CHEMICAL CORPORATION
KERR-McGEE CENTER • OKLAHOMA CITY, OKLAHOMA 73125

J. L. RAINEY
PRESIDENT

April 14, 1982

Senator Malcolm Wallop, Chairman
Subcommittee on Public Lands and
Reserved Water
Room 3204, Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

This letter, written on behalf of Kerr-McGee Chemical Corporation (KM), expresses the Company's position on H.R. 9 and S. 1783. In addition, background information is included which may be helpful to the subcommittee and full committee as they consider legislation affecting the Osceola Forest. We request that this letter be entered into the official record of the subcommittee hearing of April 1, 1982.

I. FACTUAL BACKGROUND

1. KM explored federal lands located in the Osceola National Forest for four years (from 1965-1969) in the expectation that, if it discovered "valuable" deposits of phosphate, it would be "entitled" to the issuance of phosphate leases pursuant to the 1920 Mineral Leasing Act.

2. After KM submitted its applications for preference right leases in 1969 and 1970, the United States Geological Survey, acting as the designee of the Secretary of Interior, determined that KM was statutorily entitled to five phosphate leases based on the application of standards used by the USGS since 1920 in making lease determinations.

3. The USGS certifications of KM's statutory entitlement to leases were made on March 28, 1969 and December 11, 1970. At no time has there been any claim that the USGS misapplied the prevailing administrative criteria in making its 1969 and 1970 certifications, or that KM had failed in any way to satisfy all regulations and procedures in effect at the time the USGS certified KM's mineral discovery.

4. Despite the USGS certifications of KM's entitlement to leases in 1969 and 1970, the Interior Department took the additional and unprecedented step of preparing an Environmental Impact Statement regarding the environmental implications of

phosphate mining in the Osceola National Forest. After three years of preparation, the Department issued an EIS on June 27, 1974. Requests by the Environmental Protection Agency and the Council for Environmental Quality, creating five more years of delay, resulted in a supplement to the EIS issued in October, 1979, that did not significantly alter the findings of the original EIS.

5. Osceola phosphate lease issuance has been the subject of five years of litigation before the federal courts in Washington, D.C. In 1976, District Court Judge Barrington Parker held that KM should receive the Osceola leases. The United States Court of Appeals for the D.C. Circuit reviewed Judge Parker's decision and held that the Department of Interior must be given a further opportunity to develop appropriate stipulations that would be included in any phosphate preference leases. Since that decision of the U.S. Court of Appeals in 1977, Interior has continued to process the preference right lease applications.

6. The present administration has attempted to proceed with its obligation to bring the lease application process to a conclusion. The U.S. Forest Service, meeting its responsibility as surface managing agency for the Osceola Forest, recently provided the Interior Department with protective stipulations to be applied to any potential lease.

7. In recent months, the State of Florida has set in motion regulatory and legislative restrictions on the Osceola Forest which officials have publicly admitted were imposed to prevent mining. However, the State's jurisdiction over a federal resource on federal land is questionable and has been legally challenged.

II. POSITION OF KERR-MCGEE

It is Kerr-McGee's position that the phosphate preference right leases should be issued. We believe that we can profitably mine in the Osceola Forest in an environmentally sound manner, making available a valuable resource while bolstering the economy of both the state and the country.

There has been much controversy about the environmental impact of mining in the Osceola. In our view, many of the statements made on this subject and information disseminated are inaccurate and outdated, and fail to take into account current reclamation technology.

Kerr-McGee believes that sand/clay reclamation techniques currently in use allow the industry to promptly reclaim mined areas of the forest to their pre-mining topography and vegetation, achieving an acceptable balance between uplands and wetlands. Indeed, the U.S. Forest Service, prior to issuing lease stipulations, reviewed the sand/clay reclamation technology and adopted it as a lease stipulation. The State of Florida has also inspected over 400 acres of sand/clay reclaimed land and certified it to be fully reclaimed according to Florida's stringent land reclamation criteria.

Notwithstanding the fact that KM believes that it is entitled to the leases and that mining can be accomplished in an environmentally acceptable manner, we are cognizant of the interest of the State of Florida and its representatives in this matter. While we believe decisions by governmental agencies regarding the development of natural resources should be based on factual considerations, we are not insensitive to the issues of policy that have been raised by Florida and by members of Congress. Therefore, if it is concluded that a resolution such as proposed in H.R. 9 or S. 1783 is in the overall public interest, Kerr-McGee would not oppose enactment, provided the legislation adequately protects our existing rights, assures us of fair compensation, realistically reflects the fact and value of the discovery and precludes efforts by the State of Florida to render the phosphate leases valueless by legislation or regulation developed after January 1, 1982.

Sincerely,

J.L. Rainey
President

May 21, 1982

Comm

MAY 25 1982

Dear Senator McClure,

It seems clear by now that the people of Florida are opposed to phosphate mining in Osceola National Forest. The forest is a treasure which we will not willingly give up. I hope you will do what you can to seek prompt passage of Senator Chiles' bill to present the desecration of Osceola. The people of Florida will greatly appreciate your help.

Sincerely,

Gary C. Minor
P.O. Box 956
Oviedo, Florida
32765

ENATE CO
ERGY AND NATURAL RESOURCES
RECEIVED
MAY 25 1982
WASHINGTON, D.C. 20510

MAY 25 1982

Mrs. John T. Bryce
2815 Mayflower Drive
Sarasota, Florida 33581

May 21, 1982

ATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
RECEIVED
MAY 25 1982
WASHINGTON, D.C. 20510

Senator James Mc Clure
Chairman Senate Energy and
Natural Resources Com.
Dirksen Bldg.
Wash. D.C. 20510

Dear Senator, Honorable Sir:

May I please add my name to the list of citizens who are strongly against strip mining for phosphate in the Osceola National Forest.

Lest you think I am a long-haired ecology freak, let me say that I am a 68 year old grandmother who wants to preserve some of our national treasures for my grandchildren to enjoy.

Yours sincerely,

Kathleen G. Bryce

6/21/82

The more than 30,000 members of the Florida Federation of Garden Clubs have long been on record - by formal resolution - against mining in Florida's Osceola National Forest. The Miami Herald and other Florida papers have carried stories about the depressed phosphate mining industry - I am a native Floridian - 3rd generation and distressed at the creeping destruction of my state's natural resources and proud to be state board member of FFGC. Please support Sen. Chiles bill to prevent mining in the Osceola forest.

Thank you Ina Roper